

COMMITTEE ON OVERSIGHT AND REFORM,  
U.S. HOUSE OF REPRESENTATIVES,  
WASHINGTON, D.C.

INTERVIEW OF: PETER DAVIDSON

Tuesday, June 18, 2019

Washington, D.C.

The interview in the above matter was held in Room 6400, O'Neill House Office Building, commencing at 9:31 a.m.

Appearances:

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Ms. Anderson. I'm just going to read a short introduction, and then we can get started.

This is a transcribed interview with Peter Davidson conducted by the House Committee on Oversight and Reform. This interview was requested by Chairman Elijah Cummings as part of the committee's investigation into the addition of a citizenship question to the 2020 Census.

Can you please state and spell your last name for the record?

Mr. Davidson. Davidson, D-a-v-i-d-s-o-n.

Ms. Anderson. First name for the record.

Mr. Davidson. Peter.

Ms. Anderson. Mr. Davidson, my name is Tori Anderson. I work as counsel for the Committee on Oversight and Reform. I want to thank you today for coming in for this interview. We appreciate your willingness to speak with us voluntarily.

At this time, I'll have the additional staff in the room introduce themselves, and then we'll go through the rules.

Mr. Anello. Russell Anello, majority staff.

[REDACTED] [REDACTED]

Ms. Johnson. Ellen Johnson, Republican staff.

[REDACTED] [REDACTED]

Mr. Sanderson. Tyler Sanderson, minority staff.

Ms. Anderson. The way this interview will proceed is as follows. The majority and minority staffs will alternate asking you questions, 1 hour per side per round. The majority staff will begin and proceed for an hour, and the minority staff will then have an

hour to ask questions. Thereafter, the majority staff may ask additional questions, and so on and so forth. We will alternate back and forth in this manner until there are no more questions from either side, and then the interview will be over.

During the interview, we will do our best to limit the number of people who are directing questions at you during any given hour. That said, from time to time, follow-up or clarifying questions may be useful, and if that's the case, you may hear from additional people around the table.

Under the committee's rules, you are allowed to have an attorney present to advise you. Do you have an attorney representing you in your personal capacity today?

Mr. Davidson. Not in my personal capacity today, no.

Ms. Anderson. I understand that you do not have a personal attorney with you today, but instead have agency counsel with you.

Would agency counsel please identify themselves for the record?

Mr. Dewhirst. David Dewhirst, deputy general counsel for the Department of Commerce.

Mr. Hull. Cordell Hull, also deputy general counsel for the Department of Commerce.

Ms. Anderson. Mr. Davidson, do you understand that agency counsel represents the agency and not you personally?

Mr. Davidson. Yes.

Ms. Anderson. And are you choosing to have agency counsel in the room with you today?

Mr. Davidson. Yes.

Ms. Anderson. There's a stenographer taking down everything I am saying and everything you say to make a written record of this interview. For the record to be

clear, please wait until I finish each question before you begin to answer, and I will wait until you finish your response before beginning to ask the next question. The stenographer cannot record nonverbal answers, such as shaking your head, so it's important that you answer each question with an audible or verbal answer.

Do you understand?

Mr. Davidson. Yes.

Ms. Anderson. We want you to answer our questions in the most complete and truthful manner possible, so we are going to take our time. If you have any questions or do not understand any of the questions, please let us know. We will be happy to clarify or rephrase our questions.

Do you understand?

Mr. Davidson. Yes.

Ms. Anderson. If I ask you about conversations or events in the past and you are unable to recall the exact words or details, you should testify to the substance of the conversations or events to the best of your recollection. If you recall only a part of the conversation or event, you should give us your best recollection of those events or parts of the conversation that you do recall.

Do you understand?

Mr. Davidson. Yes.

Ms. Anderson. If you need to take a break, just please let us know. We are happy to accommodate. Ordinarily, we take a 5-minute break at the end of each hour of questioning. But if you need a break before then, let us know. However, to the extent possible, if there's a pending question, we would just ask that you finish answering the question before you take a break.

Do you understand?

Mr. Davidson. Yes.

Ms. Anderson. Although you are here voluntarily, and we will not swear you in, you are required by law to answer questions from Congress truthfully. This also applies to questions posed by Congressional staff in an interview.

Do you understand?

Mr. Davidson. Yes.

Ms. Anderson. If at any time you knowingly make false statements, you could be subject to criminal prosecution.

Do you understand?

Mr. Davidson. Yes.

Ms. Anderson. Is there any reason you are unable to provide truthful answers in today's interview?

Mr. Davidson. No, not that I know of.

Ms. Anderson. Please note that if you wish to assert a privilege over any statement today, that assertion must comply with committee rules.

Committee rule 16(c)(1) states, quote: "For the Chair to consider assertions of privilege over testimony or statements, witnesses or entities must clearly state the specific privilege being asserted and the reason for the assertion on or before the scheduled date of testimony or appearance," end quote.

In addition, committee rule 16(c)(3) states, quote: "The only assertions of executive privilege that the Chair of the Committee will consider are those made in writing by an executive branch official authorized to assert the privilege," end quote.

Do you understand?

Mr. Davidson. I've had those rules explained to me. I understand your rules.

Ms. Anderson. Do you have any other questions before we begin?

Mr. Davidson. No.

Ms. Anderson. Would you like to identify yourself for the record?

Mr. Castor. Steve Castor with the Republican staff. Good morning.

Ms. Anderson. Good morning.

I will note for the record that it's 9:37 a.m., and we will start our first hour of questioning.

#### EXAMINATION

BY MS. ANDERSON:

Q Mr. Davidson, when did you join the Department of Commerce?

A When did I -- when was I sworn in? The 11th or 12th of August, 2017.

Q What was your role?

A General counsel.

Q Did you have any discussions about adding a citizenship question to the Census before joining the administration?

A I don't recall. I don't recall specific -- no, I don't recall any -- any conversations prior to joining on the question.

Q When did you first discuss adding a citizenship question to the Census with anyone in the Trump administration?

A I believe it was in one of the first days, you know, after I was sworn in.

Q Who did you discuss it with?

A To the best of my recollection, it was Izzy Hernandez.

Q And what was his role at the Department?

A At the time, he was in the front office in some capacity, but I believe he moved fairly quickly after that to an acting position at ITA.

Q Who initiated that conversation?

A He did.

Q What did he tell you?

Mr. Dewhirst. I'll caution the witness. You can answer the question to the extent it doesn't disclose executive branch confidentiality and litigation interests.

Mr. Davidson. Okay.

My memory of the meeting with Izzy is that he came with a number of issues that were important issues that I needed to get up to speed on.

Ms. Anderson. And one of those was the citizenship question?

Mr. Davidson. Yes. There was a whole list of issues.

Ms. Anderson. So what did he tell you about the citizenship question at that time?

Mr. Dewhirst. I'm going to instruct the witness to answer to the extent he can without disclosing executive branch confidentiality and litigation interests.

You can try.

Mr. Davidson. Okay. To the best of my memory, it was an informational meeting about issues that I would need to get up to speed on quickly. It was a summary of a number of different issues.

Mr. Anello. What did he tell you specifically about the citizenship question?

Mr. Dewhirst. I'm going to instruct the witness not to answer because that question implicates executive branch confidentiality and litigation concerns.

To the extent you can, answer.

Mr. Davidson. My memory of that conversation is as I described it previously. It was an informational briefing about literally listing issues that are coming up so I could start kind of getting up to speed. So that's my recollection of that meeting.

BY MR. ANELLO:



Q I understand, but I think I'm a little confused because of the instruction.

It's not clear to me what you're -- what you don't remember and what you're not telling us based on the instruction.

A I remember -- okay.

Q You remember having a discussion specifically about the citizenship question that you're not disclosing to us currently because of the instruction you've been given?

A No. What I said was that what I recall was a briefing by Izzy on a number of different issues that I needed to start getting up to speed on, and it was just a briefing on -- kind of listing this, listing that, listing this, listing that.

Q So what he -- so one of those items was the citizenship question, correct?

A My recollection is that was one of the items, yes.

Q And what was the posture in which he raised it with you?

Mr. Dewhirst. I'll caution the witness. Same instruction.

To the extent you can -- you recall, you can answer.

Mr. Davidson. My memory is that it was literally just a here are the things, you know, that you're going to have to get up to speed on quickly. So it was just -- there was no -- I don't recall anything other than just listing the issues.

Mr. Anello. But did he tell you this was an issue, that adding a citizenship question, for example, was under consideration at the time?

Mr. Dewhirst. Same instruction to the witness, same caution.

Mr. Davidson. I don't recall that. I don't recall that statement from Izzy.

Mr. Anello. Did he tell you specifically that the Secretary had a particular interest in this issue?

Mr. Dewhirst. Same instruction.

Mr. Hull. Same instruction.

Mr. Davidson. I don't recall anything other than him just saying -- and there was -- I mean, just -- it was probably over a dozen issues that he was bringing to my attention on that day.

And if I can kind of set the scene a little bit for what it was like when I came in. I literally had people lining up outside my door with kind of pent-up issues that they were trying to get, and there was hardly anybody there. So when I got in, it was a flood of issues.

So many of those preliminary conversations were just like there's this, there's this, there's this. So that's the context I remember.

Mr. Anello. So again, just to avoid any confusion with the instructions that you've been given, do you have any further recollection about what Mr. Hernandez told you regarding the citizenship question in that initial conversation you had with him?

Mr. Davidson. My recollection is literally just laying out the issues.

Ms. Anderson. When did you first hear that the Secretary was interested in adding a citizenship question?

Mr. Dewhirst. I'm going to caution the witness that to the extent that this would disclose executive branch confidentiality and litigation interests, if you can -- I would instruct you not to answer. To the extent you can without compromising those interests, you can answer or whatever you recall.

Mr. Davidson. Okay. Could you rephrase the question slightly so I can answer it?

Mr. Anello. I'm sorry. What is the objection? Why can't you answer that one?

Mr. Dewhirst. Well, would you restate the question, please?

Ms. Anderson. Yeah. When did you first hear that the Secretary was interested

in adding a citizenship question?

Mr. Dewhirst. So I'm going to -- I am going to give the instruction to the witness not to answer as that question, I think, as constructed, certainly implicates executive branch confidentiality and litigation concerns.

BY MR. ANELLO:

Q Did you learn at a certain point that the Secretary was interested in adding a citizenship question?

A At a certain point I learned that there were discussions of it, yes.

Q When was that?

A Well, the discussions I already raised -- I mentioned Izzy Hernandez kind of put it on the radar screen.

Q So at that point, did you know that the Secretary was interested in it?

A I don't recall at that point.

Mr. Dewhirst. Again, I'm going to caution the witness that you can answer to the extent you recall, but the question does implicate executive branch confidentiality and litigation concerns.

Mr. Davidson. I don't recall, as I mentioned, that Izzy mentioned anything other than putting it on my radar screen at that point. There were other conversations after that that made me realize that the issue was being discussed internally.

MR. ANELLO:

Q So maybe we should go on to when that next discussion was.

A That's fine.

Q So when was that discussion?

A When was the next time?

Q The next discussion on the topic.

Mr. Dewhirst. Just so the record is clear, would you just ask the question all at once?

Mr. Anello. When was the next discussion on the topic of the citizenship question?

Mr. Davidson. Well, the next briefing I had on the topic was, as I remember, was probably, and I don't have 100 percent recollection of this, but probably a conversation with James Uthmeier.

BY MS. ANDERSON:

Q And when was that?

A It would have been within the first week of my starting.

Q Had Izzy Hernandez directed you to speak with him? How was the -- what was the path?

A I don't recall how -- I don't recall how it happened.

Q When he first sort of brought this up on the list of things, of things that needed to be on your radar when you first arrived at the Department, were there any pending things that had to be done? Was it just an up-to-speed thing? Was there an action that needed to be taken?

Mr. Dewhirst. Same instruction. To the extent you recall, you can answer without implicating executive branch confidentiality and litigation concerns.

Mr. Davidson. I just remember that he was putting on my radar screen this is an issue that's -- it's one of the many issues that you are going have to get going on quickly, get up to speed on, I guess.

Mr. Anello. Sorry, but just to follow up on Ms. Anderson's question. Did he say that this was an issue that you were going to have to get going on, meaning that you were going to take some action on, or that he was simply providing this information for your

background? There's a distinction there, and that's a -- we need to clarify.

Mr. Dewhirst. You have a compound question there, but to the extent that you're asking about whether -- the first part of your question, which was, I think, whether Izzy Hernandez told him he needed to get going on something, on any specific tasks, I'm going to instruct the witness not to answer to the extent you recall on the basis previously stated.

Mr. Davidson. Understanding that it's, you know, approximately 2 years ago, the conversation, my recollection of that conversation is as I described it. It was just putting things on my radar screen. I don't -- I don't remember anything other than a listing of the issues in that meeting, in the initial meeting with Izzy.

BY MS. ANDERSON:

Q And so you said within the first week after arriving at the Department you had a discussion with James Uthmeier?

A My memory is it was within that timeframe, yes.

Q Was anyone else present during that meeting?

A I don't remember anyone else being present.

Q And what did you discuss with him?

Mr. Dewhirst. I'm going to interpose an instruction not to answer based on the executive branch confidentiality and litigation concerns.

To the extent you can answer without compromising those interests.

Mr. Davidson. So I can -- I can give a general description of the meeting, like an over-the-top view, an overview of --

Mr. Dewhirst. Well, I mean, you've already answered that there was a discussion about the citizenship question.

Mr. Davidson. Okay. So what I guess I can say is that it was a -- it was, as you

can imagine, a legal review of issues on the citizenship question, the topic of the briefing.

BY MR. ANELLO:

Q Was Mr. Uthmeier reporting to you at this point?

A I think -- well, I guess, yes, as soon as I was sworn in, he was a senior counsel in the -- in the office, so yes, he was.

Q So did you ask for this meeting?

A I don't recall. I don't recall whether I asked for it or he came into my office.

Q All right. So this was one of your -- this was on your first week on the job. Why did you -- why did you meet with him on this particular topic in that week?

Mr. Dewhirst. Yeah. To the extent that you recollect, you can answer, but I would caution the witness that the question as constructed implicates the same concerns previously articulated.

Mr. Davidson. I think what I can say to respond to your question consistent with that advice is that there were dozens of issues that were being brought to me at that time, so it was not unusual for someone to come in and brief me on something that was going on.

Mr. Anello. That wasn't my question.

Mr. Davidson. Okay.

Mr. Anello. It was not whether it was usual or unusual. The question was why you had that particular meeting about that particular topic.

Mr. Dewhirst. And same instruction, to the extent you recall.

Mr. Davidson. You know, I don't recall why that briefing at that time. What I just told you is the general atmosphere was a lot of briefings on a lot of things by a lot of people in that first week. It was a fairly active week.

Mr. Anello. Did you understand from the briefing, from the meeting that you

had with Mr. Uthmeier, that the Secretary was interested in that topic, talking about the citizenship question?

Mr. Dewhirst. Sorry. I'm going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did Mr. Uthmeier bring any documentation to that meeting or provide you with any documentation?

Mr. Dewhirst. To the extent you recall.

Mr. Davidson. Yes.

Ms. Anderson. What was that?

Mr. Davidson. It was a -- I recall it as a kind of a preliminary legal research memo.

Mr. Anello. And why was he conducting legal research?

Mr. Dewhirst. Previous instruction to the witness.

Mr. Davidson. Okay. You know, things before I came in there, I'm not sure what was happening. I don't know why he had been conducting legal research.

BY MR. ANELLO:

Q But presumably when he sat down and showed you the legal research, he provided some context to you, correct?

A I don't recall that. I mean, I know what context means. What do you mean by context?

Q Well, when he showed you the legal research that he had done on the citizenship question, did Mr. Uthmeier explain why he was conducting legal research on the citizenship question?

A I mean, I don't recall that he did. It's possible he said something. As I mentioned to you before, it was evident to me that the issue was being discussed, you

know, long before I was -- I came into the Department, you know, relatively late in the -- mid-August.

Q When did those discussion begin, based on your knowledge?

A I don't have any knowledge of when they began before.

Q You said -- you said it was evident that they had begun long before you started. So what did you understand about the previous discussions before you had gotten there?

A Well, I was --

Mr. Dewhirst. To the extent you recall, you can answer, but I would caution the witness that that question does implicate executive branch confidentiality and litigation concerns.

Mr. Davidson. I mean, I was, you know, briefed by Izzy that this is an issue you need to know about. So I guess I assumed that that means that it -- you know, it wasn't just popping up that day, that it had been under discussion. That was my assumption. He didn't tell me that, but I made that assumption.

And then the fact that James had been conducting some legal research on it led me to believe that there had been, you know, prior discussions about it in the Department.

BY MR. ANELLO:

Q And again, I hate to have to keep asking this question, but is there anything more you remember that you're not able -- that you're not telling us because of the instruction because it's -- it's gotten a little bit confusing for the record.

A Yeah. No. I understand.

Q We really need to be clear on what -- whether you're giving us a complete answer or you're giving us an incomplete answer based on the instruction from the



Department.

A I'm trying to give you a complete answer, and -- consistent with the instructions -- but I'm trying to give you a complete answer.

My memory of that meeting with James was that he was walking through the legal research memo and kind of explaining -- let me also just take a step back, if I could.

I had never done any -- any work on Census to that point. I knew nothing about it. Literally nothing. Of all the years that I've been in Washington, I don't recall ever having worked on Census issues.

So this was completely new to me. So as a blank slate, my memory of these early conversations were people coming in and trying to educate me on the issue. I remember that it was a legal briefing educating me on what are the parameters, the legal parameters of this issue or kind of the classic, you know, legal 101 on the citizenship question.

Ms. Anderson. What had he concluded in his legal memo?

Mr. Dewhirst. And I'm going to instruct being the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did the Secretary ever mention or discuss why he was interested in the citizenship question?

Mr. Dewhirst. I'm going to instruct the witness not to answer on the same basis previously articulated.

Ms. Anderson. After -- so you had this discussion about Mr. Uthmeier's legal memo. What did you do regarding the citizenship question next?

Mr. Davidson. What did I do next?

Mr. Dewhirst. To the extent you recall.

Mr. Davidson. Yeah. I don't -- I don't recall what the next -- what the next step

was, or I don't recall what happened after I was briefed on it.

Mr. Anello. During your briefing or at any time around then, did Mr. Uthmeier tell you with whom he had consulted on the citizenship question?

Mr. Dewhirst. I'm sorry. Which briefing are you referring to?

Mr. Anello. The briefing that the witness just mentioned with Mr. Uthmeier.

Mr. Davidson. I don't recall him saying who he had consulted with. In that -- in that meeting, it was an overview of the legal issues, so that's the best memory I have.

BY MS. ANDERSON:

Q Who else did you speak with at this time about the citizenship question at the Department?

A Well, can you define what "at this time" means?

Q So you said that you were sworn in and began at the Department in August, mid-August, and you had a meeting with Mr. Uthmeier a week later. You also met with Izzy Hernandez before.

A Uh-huh.

Q So it's all in that August timeframe. Did you discuss the citizenship question with anyone else in the Department at that time?

A I'm trying to remember. It's possible I also may have been on some personal vacation after I started. I'm trying to remember back to that time, but I remember having some discussions about, you know, that I had a previously arranged family vacation or something like that.

But I don't recall what happened in the rest of August. I can -- if it would be useful to you, I can -- if you want to expand the scope of it a little bit, then I could talk a little bit about the fall generally. I'm just -- I'm not trying to be difficult. I'm just struggling with whether it was August or September.

Mr. Anello. Sure.

Mr. Davidson. So could you phrase the question, then?

BY MS. ANDERSON:

Q Did you discuss the citizenship question with anyone else at the Department in that fall range?

A Yes.

Q Okay. Who?

A Well, I don't have -- I don't have a distinct memory, but I can make an educated guess about who it was. I mean, I'm trying to remember a precise meeting where I did it, but I can give you names of people who I likely met with and discussed at that time, if that's okay.

Q Okay.

A So it would likely have been Karen Dunn Kelley, who was sworn in the same day I was sworn in, likely Earl Comstock, likely the Secretary, likely the chief of staff.

Mr. Anello. Is that Ms. Teramoto?

Mr. Davidson. Wendy Teramoto, yes.

Those would probably be the -- there may have been some other staff as well.

Ms. Anderson. So Mr. Comstock and Ms. Teramoto were at the Department before you arrived.

Mr. Davidson. Yes.

Ms. Anderson. Is that correct?

Did Mr. Comstock ever mention to you why the --

Mr. Dewhirst. Wait for the question.

Mr. Davidson. Okay. Sorry.

Ms. Anderson. Did Mr. Comstock ever indicate to you why the Secretary was

interested in the citizenship question?

Mr. Dewhirst. I'll instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did Ms. Teramoto ever mention to you why the Secretary was interested in the citizenship question?

Mr. Dewhirst. Same instruction.

Mr. Anello. These are yes-or-no questions. Are you saying that the -- whether he has knowledge of this -- whether he was given knowledge of the Secretary's interest is a -- is a privileged question, in your view?

Mr. Dewhirst. Would you state the question one more time?

Ms. Anderson. Sure.

Did Mr. Comstock ever mention to you or make you aware of why the Secretary was interested in the citizenship question?

Mr. Dewhirst. I'll withdraw the instruction.

Mr. Davidson. I don't recall Earl having said why he was interested in it.

BY MS. ANDERSON:

Q Did anyone mention to you or discuss with you why the Secretary was interested in the citizenship question?

A I don't recall anyone saying why the Secretary was interested. I don't remember a conversation where someone said -- explained to me the Secretary is interested because of X.

Q Did you ever discuss with the Secretary why he was interested?

A I don't recall asking him that. That wasn't a role that I was playing. I was a legal role for the Secretary, so I was -- I wouldn't -- I don't ask him why he's interested in issues.

Q Sure. I'll rephrase.

A Okay.

Q Did he ever mention why he was interested?

A I do not recall him ever mentioning that, no.

BY MR. ANELLO:

Q Did you have an understanding, more generally, about why the administration was interested in adding a citizenship question during this time period? And so we're talking, I guess, August, September of 2017.

A Can you define a little more "understanding"? What does that -- what does that mean?

Q Did you have an understanding, a belief, as to why there was an effort to add a citizenship question underway?

A Well, what I just -- what I told you is that I was not told why the, you know, why the citizenship question was in play.

Q Did you have a -- did you come -- so nobody ever told you why the citizenship question was under consideration? Is that what your statement is?

A I do not recall someone saying that the citizenship question is being examined because of X reason.

Q Did you come to that understanding in a different way as to why the citizenship question was being pursued at that time?

A I don't recall having come to any understanding. And again, my role as general counsel and lawyer was to do legal aspects of it. It wasn't necessarily to be involved in the front end of, you know, policy issues.

Q I understand that. The general counsel is the number three at the Department. Is that fair?

A Uh-huh.

Q Okay. And so it's a very senior role at the Department?

A Uh-huh.

Q And you indicated this was one of the first issues that the Secretary's office briefed you on when you first arrived, correct?

A Uh-huh.

Q And I think you listed four people you met with, including the Secretary, Ms. Kelley, the Secretary's chief of staff, the head of policy, Mr. Comstock. That's all accurate?

A Yes.

Q Okay. You're saying in none of those conversations did you either ask, nor were you told why this was an objective the Department was pursuing?

Mr. Dewhirst. Well, let me just state for the record that he's answered this question, like, three times. So if you want to continue to ask him the question --

Mr. Anello. I would like to -- yes.

Mr. Dewhirst. -- that's perfectly fine.

Mr. Davidson. I do not recall having been told by anyone that this is the reason why we're looking at this question.

BY MR. ANELLO:

Q Did you have a belief as to why that question was being looked at at the time?

A I don't recall what my beliefs were at that time.

Q At any time prior to receiving the Department of Justice's letter in December of 2017, did you form a belief as to why the question was being pursued by the administration?

A I don't recall having formed a belief of one particular thing.

Q Is that usual, for you to pursue policy areas, policy objectives of the Secretary or of the Department without knowing why?

A Well, I can tell you that there were a number of initiatives going on at that time where I was doing legal research and looking at legal aspects of options and different policies that were being considered.

I can think of trade issues. There were a number of trade issues that had complex legal analysis going on in them, and I was not -- I did not consider it to be my place to ask: Why are you pursuing this trade policy? We were doing a legal analysis of the options that would be presented on those issues.

So to answer your question is, I can recollect several issues where I didn't sit down and ask the Secretary: Why are you doing this?

Q But that wasn't my question. It wasn't whether you sat down and asked the Secretary. It was whether you formed a belief at any point. And I don't want to misstate what you told us, but I believe what you told us is that as far as you know, you did not ever form such a belief, or at least you don't remember one, and that nobody ever told you why this was being pursued, even though this was an issue that you started working on, or at least you were briefed on, from almost the very first day that you got to the Department. If I'm misstating that, please let me know because I don't want to put words in your mouth.

Mr. Dewhirst. So editorializing aside, I think the one thing he did testify to is that he doesn't recall any beliefs that he might have had. So he has testified to that.

Mr. Hull. Several times.

Mr. Davidson. Yes. And I suppose I could add to that that during the fall, there was -- you know, I did sit in on meetings where there was a lot of policy, there was a lot of

discussions kind of at the policy level about, you know, advantages. And this is, again, kind of maybe bleeding in a little bit more to some of the discussions later with Census Bureau and other folks. But, you know, what are the benefits and potential costs of adding the citizenship question.

So if you're asking me the question, was I aware of pros and cons, yes, I was aware of the discussion of those pros and cons?

Mr. Anello. You're talking about discussions after the December 2017 letter?

Mr. Davidson. Well, I don't -- I don't recall exactly what the timing was, but at some time in the fall there were, you know, policy discussions and meetings that were talking about -- I don't recall specifically the meetings there were, but there was a discussion about: What is the benefit of getting the data? So and the answer to your question is -- well, I'll leave it at that.

Ms. Anderson. When you were having those initial discussions when you first arrived at the Department, were there any discussions about how the question would be added to the Census?

Mr. Dewhirst. I'm going to instruct the witness not to answer because it implicates executive branch confidentiality and litigation concerns.

Mr. Davidson. Okay. I'm not sure I understand your question.

Ms. Anderson. Were there discussions about what a legal reasoning or rationale would be to support the addition of a citizenship question?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. I believe that's a yes or no. So you're saying that whether they had a discussion about the legal analysis, that is a privileged question, whether the conversation occurred?

Mr. Dewhirst. Mr. Davidson has already testified that they had legal discussions



about the citizenship question generally, and that's as much information as the Department can provide about the legal processes that were taking place at the time.

Ms. Anderson. Did any of the rationale or legal underpinnings of potentially adding a citizenship question change from when you first arrived at the Department to when the Secretary added or issued his decision memo in March of 2018?

Mr. Dewhirst. The same instruction to the witness. That implicates executive branch confidentiality and litigation concerns. To the extent you recall.

Mr. Davidson. Okay. I can give you a broad overview and just say, listen, without getting in the middle of the, you know, discussions between lawyers, it would not be unusual for legal analysis to evolve over time. And as you learn more about it and discuss more internally you know the issue set.

So, you know, I don't want to get into exactly who said what because I think that goes over the line, but I can tell you that there were, you know, discussions of a lot of aspects of the citizenship question. It wasn't just -- there weren't just a few simple questions. It's a very complicated topic legally.

Mr. Anello. I want to make sure I'm understanding. You said, generally speaking, sometimes I think you're saying, through discussion legal analysis can change over the course of discussion. Is that what you're saying?

Mr. Davidson. Yeah. That is my experiences in working in government is you start talking about things, and those -- you know, the issue sets can grow or shrink. And then you look at things differently, you discover new cases, you know, you get new perspective, so --

Mr. Anello. Did that happen in this case?

Mr. Dewhirst. That's -- I'm going to instruct the witness not to answer, the same basis previously articulated.

BY MS. ANDERSON:

Q Are you aware of the Secretary speaking with anyone else at the Department of Commerce about the citizenship question?

A Yes.

Q Who?

A Pretty much the same list of people that I read to you before that would have been -- well, actually, a much bigger list than that. It would have included the people in the front office and then a number of people at the Census Bureau.

Q I'm just going to cap it in time a little bit.

A Okay.

Q From when you first -- that fall period, August, September, were you aware who he spoke with about the citizenship question in that time, and if so, who?

A So starting with what I observed personally in the meetings we were at, the people I listed before, so Wendy Teramoto, Earl Comstock -- who else did I say was there?

Mr. Anello. Karen Dunn Kelley.

BY MS. ANDERSON:

Q Karen Dunn Kelley.

A Karen Dunn Kelly. That's right. Sorry. I can't forget her. And perhaps other staff in the front office as well.

Q What would you say their roles were, each individual, in these meetings, Wendy Teramoto or Earl Comstock, Karen Dunn Kelley?

A Well, I don't remember -- if you're asking me in a particular meeting what role did people play, or generally what roles did they play?

Q We'll start with generally.

A Okay.

Q In that timeframe.

A So Earl was the --

Q Sorry. Their role regarding the citizenship question.

A Oh, okay. Well, I guess I'll answer it the same way I was going to answer it generally, which is Earl is the director of the Policy Office, and he has several staff that engage on policy issues across the Department. Again, you know, we have 13 bureaus and, you know, a lot of issues going on at any given time.

Wendy was chief of staff and dealt a lot with edge scheduling of the Secretary and managing the front office.

Karen Dunn Kelley at the time was the under secretary for ESA, which has the EA and the Census. So she was the top political appointee dealing with Census issues. And so she would have been involved in all kinds of aspects, you know, policy, administration, administrative, so --

Q Were you aware of whether the Secretary had discussions with Christa Jones about the citizenship question?

A During what period?

Q During the fall or prior to your arrival.

A Prior to my arrival, no, I didn't know who Christa Jones was.

Let's see. No, I'm not aware of any time in that period when he spoke with her.

If you want to ask a follow-up, I can --

BY MR. ANELLO:

Q Are you aware of any --

A Okay.

Q I'll take the bait there.

A So, yeah.

Q Are you aware of any over conversations?

A I was present in meetings where Christa Jones was present with the Secretary.

Q When were those meetings?

A It's hard for me to tell you exactly when. I can't tell you how many meetings there were on the Census generally. I would say every day we had at least one major meeting on Census issues, and there were oftentimes many people in the room, and I can't keep track of who was coming and going and what issues. But it was a mind-numbing number of meetings that time going on at that time on Census, believe me.

And again, I was getting up to speed on all this stuff, so I didn't understand, you know, 90 percent of the acronyms or any of the things that were going on. But there were a lot of meetings going on on Census. So she was likely --

Q What about the citizenship question?

A I don't recall precisely what meeting that might have been raised in, but it certainly was discussed. My recollection generally is that it was a topic in some of those briefings and meetings.

Q And so what role was Ms. Jones playing in those meetings with regard to the citizenship question?

A I don't -- well, I don't recall. I don't -- honestly, I don't recall her having weighed in on the citizenship question. I don't -- I don't recall having met Christa until much later, you know, into 2018. But I don't know when she arrived at the Department. I don't know -- I don't know that much about Christa.

Ms. Anderson. Were you aware of the Secretary speaking with anyone outside of the Department of Commerce about the citizenship question?

Mr. Davidson. Was I aware?

Mr. Dewhirst. That's a yes-or-no question, so --

Mr. Davidson. Yeah. Outside of the Department? Yes.

BY MS. ANDERSON:

Q Who?

A In what time period, again, are you talking about? At any time?

Q Uh-huh.

A I became aware that he had -- I think he had spoken about it with the Attorney General.

Q Anyone else?

A Outside of the Department? Well, yeah. There was a kind of Census expert, Mark Neuman. I know that he spoke with Mark Neuman about it.

Q Anyone else?

A Anybody else? It doesn't -- if you want to try to refresh my memory, I'm happy to recall, but those are the names that are coming to mind right now.

Q Are you aware of him ever having spoken with Thomas Hofeller?

A I am not.

Q Kris Kobach?

A I was not aware at the time. In the subsequent litigation, I think I became aware of the -- I think there had been an attempt at contact or a contact. I can't -- I can't remember.

Q Anyone from the transition team?

A Had the Secretary spoken to anybody from the transition team?

Q Yes.

A Was Mark Neuman on the transition team?

Mr. Anello. Yes.

Mr. Davidson. Okay. Well, then --

Mr. Anello. Mr. Kobach was, too, so maybe anybody other than those two.

Mr. Davidson. Okay. He was on -- okay. I was -- well, I was unaware he was on the Commerce transition. I knew he had other things he was doing.

Ms. Anderson. I'm speaking about the transition team in its entirety, not just for Commerce.

Mr. Dewhirst. In the -- in the entire administration?

Mr. Davidson. Oh. I'm sorry. Okay. No, I was --

BY MS. ANDERSON:

Q Were you aware of -- outside of Mr. Neuman and Mr. Kobach, were you aware of the Secretary having a discussion with anyone else from the transition team?

A Was Izzy Hernandez on the transition team? I don't know. That's a possibility.

I was not involved in the transition, so I'm sorry, I can't -- I don't have a list of everybody on the transition team, so --

Q How about anyone from the White House?

A Did he talk to anyone at the White House?

Mr. Dewhirst. Again, it's a yes-or-no question.

Mr. Davidson. Okay. I have no recollection of that.

Ms. Anderson. Andrew Bremberg?

Mr. Dewhirst. Again, you're asking whether Peter is aware whether the Secretary talked to these individuals?

Ms. Anderson. Correct.

Mr. Dewhirst. Okay.

Mr. Davidson. I'm not aware that he did. Where did he work, Bremberg?

Mr. Anello. Domestic policy.

Mr. Davidson. Okay. I didn't deal with him on this issue.

BY MS. ANDERSON:

Q How about Stephen Miller?

A I'm not aware, no.

Q Steve Bannon.

A I'm not aware.

Q The President.

A I'm not aware. I was not told that there was any conversation.

Q John Baker, who is a professor at Georgetown?

A I'm not aware of that.

Q Let's start at the top of the list. You said the Attorney General and Mark Neuman. Is that correct?

A Yeah. Those are the two that come to mind. There may have been others, and if I remember them, I'll let you know.

Q Okay. When did you become aware that the Secretary had spoken with the Attorney General and Mark Neuman?

A I'm not sure when it was.

Q Do you know when those conversations occurred?

Mr. Dewhirst. And to be clear, you're asking when did he become aware that the Secretary spoke to both of those individuals or each?

Ms. Anderson. Yeah. I can break it out.

Mr. Dewhirst. You might want to.

Mr. Davidson. Okay. Yeah. Please do. I'm sorry.

BY MS. ANDERSON:

Q When did you become aware that the Secretary had spoken with the Attorney General about the citizenship question?

A Sometime in the fall, I think. I'm not sure exactly when it was.

Q Were you aware of how many conversations the Secretary had with the Attorney General about the citizenship question?

A No.

Q Were you made aware of what they discussed?

Mr. Dewhirst. It's a yes-or-no question.

Mr. Davidson. Yes.

Ms. Anderson. What did they discuss?

Mr. Dewhirst. On that, I'm going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Mr. Davidson. Can I give a general topic that they talked about or --

Mr. Dewhirst. Well, I think we've established that the topic was the citizenship question.

Mr. Davidson. Okay. Okay. You could infer the topic was the citizenship question.

Mr. Anello. Did the Secretary ask the Attorney General to have the Department of Justice request the citizenship question be added to the Census?

Mr. Dewhirst. Same instruction to the witness.

Mr. Davidson. I don't -- I don't have any knowledge of that, so I can't answer that question.

Mr. Anello. Did the Secretary and the Attorney General discuss the reason that the Secretary was interested in adding the citizenship question?



Mr. Dewhirst. It's a yes-or-no question. Go ahead.

Mr. Davidson. I don't know.

BY MR. ANELLO:

Q Well, do you know what they discussed beyond just the general topic?

A My recollection of that was that the Secretary and the Attorney General had a conversation about the citizenship question, and I don't recall being debriefed further on what happened in that conversation.

Q Do you know if that conversation led to any action on the part of the Department of Commerce?

A You know, the causality, I don't know. Yeah. I mean --

Q Well, we don't need to split hairs about it.

A Yeah. I don't know if it was because of --

Q Butterfly flapping its wings --

A Yeah. I don't know. I can't tell you whether anything was because of the call, but there were steps at some point by the Department of Commerce, yes.

Q Okay. What were those steps?

Mr. Dewhirst. And on that, I'm going to instruct the witness not to answer that. It implicates executive branch confidentiality and litigation concerns.

Mr. Davidson. Can you rephrase the question in a way that I can answer it?

Mr. Anello. It's hard to know what you're allowed to answer these days. I think that's a question you should be allowed to answer.

I'm simply asking what you did following the phone call. So can you tell me that? Can you tell me what steps were taken following the phone call or the conversation between the Attorney General and the Secretary of Commerce?

Mr. Dewhirst. So what steps were taken generally, or what steps did Peter take?

Mr. Anello. The question had been what steps the Department of Commerce took.

Mr. Dewhirst. If you're aware.

Mr. Davidson. Well, again, I'm not sure of the timing of the call and the action. But at some point in the fall there was a conversation with an attorney at the Department of Justice, John Gore.

BY MR. ANELLO:

Q A conversation with whom?

A John Gore.

Q I'm sorry. Who else was involved with you?

A Oh, me. I'm sorry. Me. I had a conversation with John Gore.

Q Okay. Why did you speak with John Gore?

Mr. Dewhirst. I'm going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did someone direct you to John Gore or did you --

Mr. Dewhirst. Same instruction.

Ms. Anderson. Did the Department of Justice's position on whether they would like to request a citizenship question change after the Secretary spoke with the Attorney General?

Mr. Dewhirst. Same instruction. To the extent you know.

Mr. Davidson. I don't know the details of the conversation. I've already said that. I do not recall having been given an in-depth briefing on what happened in that conversation. I'm pretty sure I was not dealing with such a debriefing.

Ms. Anderson. In general, did the Department of Justice's position change around that August-September timeframe?

Mr. Dewhirst. Again, same instruction. To the extent you can speak for the Department of Justice.

Mr. Davidson. Again, I -- my involvement began in mid-August. I have no idea what the Department of Justice position was at that time. The beginning of my involvement with the Department of Justice was a conversation with John Gore, a telephone conversation.

BY MS. ANDERSON:

Q So when did you become aware that conversations occurred between Secretary Ross and Mark Neuman?

A When did I become aware?

Q Uh-huh.

A Probably just before I was sworn in, before I came to the office.

Q How did you become aware?

A I was invited -- well, I believe I was invited to a briefing by Mark Neuman.

Q What was the briefing about?

A My memory of the briefing was that it was kind of a Census 101 history background or briefing.

Q Did he discuss the citizenship question at that briefing?

A I don't recall it having been raised at that briefing. It was -- I remember it being a very broad briefing. And again, this is probably the first time that I had been exposed to Census issues perhaps ever.

Q Are you aware of how many conversations the Secretary had with Mark Neuman?

A I'm not. You mean to that point or --

Q About the citizenship question.

A Oh. I'm not, no.

Q Do you recall what the Secretary spoke with Mark Neuman about regarding the citizenship question?

Mr. Dewhirst. To the extent you can answer the question. I would caution the witness that this does implicate executive branch confidentiality and litigation concerns.

Mr. Davidson. I think I can -- I can give you, you know, the same response, which is what I remember, which is he was providing a background briefing on Census issues generally. And he did -- my memory of the meeting is that he did most of the talking about stuff he knew about the Census. He has -- Mark Neuman has an encyclopedic knowledge of Census issues, and he would share that knowledge.

Mr. Dewhirst. You're talking about the meeting that you don't recall citizenship being raised?

Mr. Davidson. I don't. I don't recall it.

Mr. Dewhirst. I don't think that's the question you're asking, right?

Ms. Anderson. Correct. I was asking whether you're aware of what Secretary Ross discussed with Mark Neuman regarding the Census issue.

Mr. Davidson. Oh, not at the meeting.

Ms. Anderson. Correct.

Mr. Davidson. Okay. I'm sorry. I thought you were talking about that meeting. Well --

Mr. Dewhirst. And the same instruction. To the extent you know, you can answer, but I have the same concerns.

Mr. Davidson. I don't recall knowing about other conversations. Is it possible they happened? It's possible. But I don't recall him -- I don't recall anyone telling me, you know, about other conversations that happened.

Mr. Anello. Do you know if Mr. Neuman provided anything in writing regarding the citizenship question to the Secretary?

Mr. Dewhirst. To the extent you know, you can answer.

Mr. Davidson. Okay. What do you mean "provided"? Does that mean used or --

BY MR. ANELLO:

Q No --

A -- gave?

Q I'm sorry. I asked -- the question I asked was whether Mr. Neuman provided to the Secretary anything in writing relating to the citizenship question.

A Okay. I guess -- I'm not trying to split hairs with you. I'm just --

Q Gave, handed, emailed, mailed.

A My memory is that he had, like, exhibits that helped him explain some of the historical aspects of the Census, but --

Q What about with respect to the citizenship question in particular?

A I don't recall any documents on that. Again, the documents he had were kind of -- my memory is that they were kind of a soup-to-nuts kind of background education, and a lot of it was history of Census. And so it is possible that that topic was raised on that as well.

Q But looking more broadly than that one briefing that you attended, are you aware of whether Mr. Neuman ever provided any documents to the Secretary or to anybody else at the Department of Commerce related to the citizenship question?

A I'm not aware of specific documents that he provided, no.

Q Are you aware generally that he provided documents?

A Well, the occasion that I mentioned, which was the meeting that was

before -- sometime before I was sworn in, I remember him having some briefing materials. And then I don't remember exactly when it was, but there was a follow-up briefing, and he had many of those same materials with him.

I don't recall whether he left any of those materials behind or whether he took them away, but what I do recall is that he had a lot of charts and data about, you know, what happened when in the Census on different types of things.

BY MS. ANDERSON:

Q Did you ever speak with Thomas Hofeller about the citizenship question?

A No.

Q How about Kris Kobach?

A I don't have a recollection of talking to Kris Kobach. I don't.

Q How about anyone from the Trump transition team?

A Do you want to ask me a follow-up on Kris Kobach or no?

Q Sure.

A Okay.

Q Do you have another recollection about speaking with him?

A I have no -- I don't believe that I've ever spoken with Kris Kobach.

BY MR. ANELLO:

Q Are you aware of Mr. Kobach playing some role related to the citizenship question that didn't involve a direct conversation with you?

A I'm just -- I am -- I have an awareness that he tried to contact people at the Department.

Q Who did he try to contact?

A I'm not sure. I'm just -- I don't have a memory of it, but I just -- I have a distinct memory that he was trying to contact.

Q Is that a memory you had from 2017 when this issue was under discussion, or as mentioned earlier, you learned something during litigation? Is that what you're --

A I don't recall when. I didn't want to leave the impression that I'd never heard of the guy before.

Ms. Anderson. Did you ever speak with anyone at the White House about the citizenship question?

Mr. Davidson. Yes.

Ms. Anderson. Who?

Mr. Dewhirst. I'll instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Mr. Anello. I think the question was just to identify the person.

Mr. Dewhirst. That's correct. Same instruction.

Mr. Anello. The identity -- again, we've been through this discussion before. You're asserting that the identity of people who work at the White House is somehow a secret from Congress?

Mr. Dewhirst. At this time, answering that question would implicate the executive branch confidentiality and litigation concerns.

Mr. Anello. The identity of the people at the White House with whom he spoke is a secret?

Mr. Dewhirst. I don't -- I don't think you and I need to clarify that any more.

Mr. Anello. I think a lot of clarification is necessary because that is an appropriate line of questions.

Mr. Dewhirst. I think we're pretty clear on where the Department is on that.

Mr. Hull. And, Counsel, as we discussed last week, we've heard your objection. We've committed to try and give the committee the information.

Mr. Anello. Well, we haven't gotten the information.

Mr. Hull. I understand that, and we've committed to try and give the committee in a different way. I will make that commitment again today that we will reassess and try and get the committee that information. But sitting here today, the instruction is going to stand.

Mr. Anello. Okay. Well, so to be clear, we haven't gotten the information in any other way. It's been several days since our last interview, and it still hasn't happened. And I think that we're having this interview because we'd like to hear from the witness who he spoke to at the White House now that he has told us he did talk to somebody at the White House. I don't believe there's any theory under which the identity of the people working at the White House is something that cannot be shared with the Congress. I understand the instruction to the witness.

Mr. Dewhirst. Okay.

Mr. Davidson. And so perhaps there's -- there's some information that I can offer you other than the name, which I understand I'm constrained from telling you.

So what I can tell you is that I had -- my memory is that I had one conversation on one occasion with an individual at the White House, that I was never given any instruction by anyone at the White House to do anything on the citizenship question, that my memory of that meeting -- and I'm going to just speak in generalities so I don't get in trouble -- but my memory of that meeting was that it was a routine, heads-up briefing on the issue.

Ms. Anderson. When was that?

Mr. Dewhirst. To the extent you recall.

Mr. Davidson. My memory it was, you know, when the decision memorandum was imminent.



Ms. Anderson. In March of 2018? In December of 2017?

Mr. Davidson. Yeah. When the decision memorandum -- the Secretary's decision memorandum was, you know, about to be made public.

Ms. Anderson. So in March of 2018?

Mr. Davidson. That's when it was, yeah. Yeah.

Mr. Anello. Did you ever discuss the citizenship question with the President?

Mr. Dewhirst. I'm going to interpose the same instruction. If you want to try to ask that question in a different way.

Mr. Anello. The question is whether he ever spoke to the President. That's the question.

Mr. Dewhirst. No, I understand the question, and that's why I gave the instruction. But if you want to ask a different question, maybe he can answer that.

Mr. Anello. Well, did you ever talk to Steve Bannon?

Mr. Davidson. I can answer his question.

Have I ever spoken to the President? I have not on anything.

Mr. Anello. The question is whether -- again, about the citizenship question. So did you talk to the President about the -- you said you have never talked to the President about anything. Did you talk to Steve Bannon about the citizenship question?

Mr. Dewhirst. Same instruction to the witness.

If you want to ask a different question.

Mr. Anello. Well, I'd like to ask the questions that I'm asking because these are important pieces of information that the committee's trying to get. We're not going to jump through hoops. These are basic pieces of information. There's not -- there's no reason that the witness can't answer these questions.

Mr. Dewhirst. So --

Mr. Anello. He identified -- he told us what didn't happen at -- what did not happen at the meeting, but he's refusing to tell us who he spoke to or what did happen at the meeting. So I'd like to make sure I understand.

Mr. Dewhirst. So you can basically ask the question that you've just asked without the appendage at the end, and the witness can probably answer that question.

Mr. Anello. Did you ever speak with Reince Priebus about the citizenship question?

Mr. Dewhirst. Same instruction to the witness.

Mr. Castor. Perhaps you can ask him if he's ever spoken to Reince Priebus.

Mr. Anello. You're welcome to -- you're welcome to ask him those questions. I'm trying to understand who this conversation was with that he had about the citizenship question, and the witness is being instructed not to answer.

Mr. Castor. Yeah. But if you ask him if he's ever spoken to Reince Priebus and he says no, I think we're good to go on that question.

Mr. Davidson. If you ask me a series of questions about that, I will certainly respond.

BY MR. ANELLO:

Q Did you ever talk -- have you ever spoken to Reince Priebus?

A Yes.

Q Okay. Have you ever spoken to Steve Bannon?

A Not to my recollection.

Q Okay. Have you ever spoken to Reince Priebus about the citizenship question?

A Not to -- sorry.

Q I guess the cat's out of the bag on that one.

A Not to my recollection.

Mr. Davidson. Sorry. Apologize.

Ms. Anderson. The meeting that you had at the White House, was it with one person or with multiple people?

Mr. Dewhirst. I'm going to instruct -- well, I think the witness has already answered that question.

Mr. Davidson. I recall the meeting was at the end of another meeting, and I believe if there were -- and I don't recall -- if there were other people in that meeting on the other topic, I don't recall them being there when I gave the heads up.

Ms. Anderson. Okay. So you recall giving the heads-up to one person at the White House?

Mr. Davidson. I remember that one person, yes.

Mr. Anello. Are you aware of other people at the Department of Commerce speaking with White House staff on this issue?

Mr. Dewhirst. It's a yes-or-no question.

BY MR. ANELLO:

Q Beyond the one meeting that you remember with the unnamed employee?

A As I said earlier, I don't have a specific circumstance for contact, but generally I think that there -- yes, I was aware that there was some contact.

Q Who at the Department was participating in that contact?

A What I was aware of was that James Uthmeier had had a conversation. I don't know with who he had the conversation.

Q Was it only one conversation?

A I don't know. I don't recall.

Q Do you know when it happened?

A I don't. It probably would have been in the, you know, fall/winter context.

Q Would it have been before or after the Department of Justice wrote their December 12th, 2017, letter?

Mr. Dewhirst. To the extent you recall.

Mr. Davidson. Probably before. I don't recall, but you're asking me to speculate here. I was generally aware that there may have been some conversations.

BY MS. ANDERSON:

Q Were you aware of any other departments being involved in those conversations?

A Other departments of the government?

Q Sure.

A With James in the conversations? No, I'm not aware that there was a three, you know, no.

Q Did you ever speak with Andrew Bremberg about the citizenship question?

A Again, I'm not recalling who Andrew Bremberg was, but I don't believe I spoke with him about it.

Q Did you ever speak with John Baker from Georgetown Law about the citizenship question?

Mr. Dewhirst. I just want to note that -- go ahead. Go ahead, yeah.

Mr. Davidson. I don't recall having spoken to John Baker.

BY MS. ANDERSON:

Q Do you remember speaking with anyone else outside of the Department of Commerce about the citizenship question outside of -- I guess you said you spoke with Mark Neuman.

A Yes.

Q Anyone else?

A Outside of the Department? Yes.

Q And who was that?

A The Attorney General, Jesse Panuccio, and several of the lawyers that were handling the litigation on the -- on the DOJ side.

Q When did you speak with the Attorney General?

A That meeting with the Attorney General, Jesse Panuccio, and the staff was in -- it was when we were -- the lawsuits were starting to come in. It was a litigation briefing.

Mr. Anello. So this was after the decision --

Mr. Davidson. After the decision. That's right.

BY MS. ANDERSON:

Q And you did not speak with anyone outside of the Department of Commerce besides Mark Neuman in the summer/fall of 2017?

A The summer or fall.

Q Let's say from when you started at the Department of Commerce to when the Department of Justice issued their letter on December 12th.

A Mark Neuman for sure. Again, I'm trying to -- I'm trying to remember. I don't recall anybody else outside. It's possible.

BY MR. ANELLO:

Q How about at the Department of Justice?

A Well, I talked to John Gore.

Q Anybody else?

A Jesse Panuccio on the litigation team.

Q Sorry. Anybody else before the decision.

Ms. Anderson. Timeframe.

Mr. Davidson. Oh. Oh. I'm sorry. Okay. I don't recall. I don't recall the citizenship question having come up. I don't know. I mean, it was -- there was discussions in the context of litigation. But I don't -- I don't know -- I don't recall any conversations where there would have been kind of like pre-litigation discussions or -- so I -- I don't know. It's possible.

I can -- I'm good. I can keep going.

Mr. Dewhirst. They're switching over.

Mr. Davidson. Oh, okay.

Ms. Anderson. Yeah. We should go off the record.

[Recess.]

[10:48 a.m.]

Ms. Johnson. You guys good?

Mr. Anello. We're good. Thank you.

Ms. Johnson. All right. It approximate is 10:48, and we're back on the record.

#### EXAMINATION

BY MS. JOHNSON:

Q My name's Ellen Johnson. I work for the Republican staff. Thank you for being here today.

Prior to joining the Department of Commerce, what do you?

A Immediately prior, I was unemployed and gardening.

Q Okay. What did you do professionally before the Department?

A I worked at Verizon Communications for 14 years up until December, '16.

Q Of 2016?

A 2016. I'm sorry.

Q Okay. December, 2016. Okay.

Did you know anyone at the Department of Commerce before you joined?

A Did I know anyone who was currently employed at the Department of Commerce --

Q Uh-huh?

A -- before? I may have known -- may have bumped into Izzy Hernandez in other aspects of my life, but I'm not sure that I knew anybody.

Q But you never worked with Secretary Ross --

A Huh-huh.

Q -- before?

A No.

Q Never met him before?

A I did meet him kind of for the interview for the position.

Q Okay. So, my Democrat colleagues asked you several questions about Mark Neuman, and you said that he provided you with a briefing right before you were sworn in, and did he -- and then you were in a meeting with him after you were sworn in. Is that correct?

A I don't recall when the first briefing for Mark Neuman was exactly; but, yes, there was a briefing. Then I don't recall when the second briefing was either. I have just a general recollection that there was another briefing.

Q Okay. In any of the briefings or conversations with Mark Neuman, did he ever mention Thomas Hofeller?

A I don't recall him ever mentioning that name.

Q Do you know Mr. Hofeller?

A I do not.

Q Are you aware of Mr. Hofeller and what he did for a living?

A To the best of my recollection, the first time I became aware of Hofeller was in reading the -- there was an Axios News story on The New York Times story that came out recently. To the best of my knowledge, that's the first time I've heard his name.

Q So, that news broke several weeks ago at the end of May. Is that -- it's your testimony that you don't recall ever having heard of Thomas Hofeller, or knowing anything about him prior to several weeks ago when you read some news articles about it.

A I don't recall ever having heard his name prior to that story.

Q To your knowledge, did you ever see any documents or materials that Dr. Hofeller had written?



A Not to my knowledge, no.

Q Okay. Did you know that Mark Neuman knew Thomas Hofeller outside of, you know, just through general work on Census issues?

A I didn't. I don't recall any mention of him. The I don't -- was not aware of that relationship.

Q Did Mark -- to your knowledge, did Mark Neuman ever provide you with any of Dr. Hofeller's work?

A I don't recall having ever seen any of his work.

Q Were you aware of -- prior to the news articles that came out several weeks ago, were you aware of any of the conclusions that Mr. Hofeller came to with respect to the citizenship question?

A As I mentioned before, I was not aware of who Hofeller is prior to reading about it in the paper is the best of my recollection.

Q Were you aware that Thomas Hofeller conducted a study in 2015 for the Washington Free Beacon about citizenship and the Census?

A I became aware of it. I think it was a part of the news story, I think.

Q So, you had not seen his study until recently, the news stories were released?

A I don't recall ever having seen his study.

Q Are you familiar with the Title 13 protections for Census data?

A Yes.

Q What is your recollection of the protections for Census data in Title 13?

A As a part of the education process, getting up to speed on those issues, I was briefed on Title 13 and its protections against disclosure of Census information.

Q Do you recall the penalties for unlawful disclosures of Census data?

A Just from my recollection of those briefings, I believe that there are criminal penalties. There may be other types of penalties as well.

Q If I told you that the penalties were up to 5 years in jail and a \$250,000 fine, would that be consistent with your recollection to the penalties?

A I remember having an impression that the penalties were severe, yes.

Q Okay. To your knowledge, were responses to the 2020 Census question on citizenship to be used by the Department of Commerce, the Department of Justice, or any other law enforcement agency in any judicial proceeding?

A Not to my knowledge. I'm not aware of that.

Q What about any immigration or deportation proceeding?

A I'm not aware of any -- any of that.

Q Would it be -- as the top legal officer at the Department of Commerce, do you believe it would be unlawful for the Department or any Government agency to use Census responses to the citizenship question for any law enforcement action or immigration proceeding?

Mr. Dewhurst. So, I think that sort of calls for a legal conclusion; but as an accommodation to the committee, he can answer.

Mr. Davidson. I'm not an expert on Title 13. But, again, I just would just repeat that it has strict prescriptions. My recollection is that it has strict prescriptions on how data can be used, and strict penalties for violation of those provisions.

BY MS. JOHNSON:

Q If you became aware of violations to Title 13, what would your response be to those violations?

A Again, speculating, I would bring that to the attention of the proper authorities.

Q Are you aware of any recent cases where either Census Bureau personnel or others who have signed the Title 13 confidentiality oath, are you aware of any recent cases of those people disclosing responses to Census questions?

A I'm not aware, no.

Q How would you react if you learned that the person had unlawfully disclosed Census responses after signing the confidentiality oath?

A I would immediately talk to, you know, experts on my staff, and have them investigate that allegation.

Q What -- to your knowledge has any such investigation occurred while you've been at the Department?

A I don't recall that one has.

Q Do you recall any investigations of that sort being conducted before you joined the Department, let's say in the last 5 years?

A I'm sorry. I'm not -- I'm not aware of the specific cases.

Q Okay. If you did become aware that Census responses were unlawfully disclosed, do you believe that as the top legal officer at the Department, you would refer the case to the Department of Justice for potential criminal prosecution?

A As I mentioned previously, I think my first step would be to contact the experts within my office, have them investigate; and if they felt like there was a violation of Title 13, then I would certainly support a referral to the Department of Justice.

Q And if it came to light after you -- your staff's investigation that criminal -- a criminal referral was necessary, would you strongly encourage the Department of Justice to take up that criminal referral?

A Yes. I mean, I think, yes, I would encourage them. I think Title 13 is very important.

Q Do you believe that it's important because the, you know, American people need to have confidence that -- and knowledge that their responses to Census questions are kept confidential?

A Again, the limited knowledge I have on the Census, but my understanding is that Title 13 has the severe penalties it does in order to give people the confidence to fill out the Census and provide information.

Q Do you have any knowledge about how the Department of Commerce or the Census Bureau ensure that their field staff adhere to the confidentiality oath?

A I have attorneys on my staff that specialize in those issues; and so, I know that they, you know, they're involved in that process. I don't know the specific process they go through in terms of training, but I know that, you know, since they're hiring hundreds of thousands of people, there is a very, you know, rigorous selection and training process, and much of that centers around the confidentiality of Title 13 data.

Q To your knowledge, has the Department directed the Census Bureau to enhance or strengthen the training for Census Bureau field staff?

A I'm not aware of specific instructions to strengthen, but I'm aware that it's a rigorous program.

Q To your knowledge, what happens if an individual or household returns a form, Census questionnaire, but it is incomplete?

A You're testing the limits of my knowledge here. I believe that the practice is to tabulate the remaining questions, and leave that other question off.

Q Okay. But to your knowledge, no one has been prosecuted for returning an incomplete Census form?

A Not to my knowledge.

Q And to your knowledge, do you believe that the Department of Commerce

would ever prosecute someone for returning an incomplete Census form, or do you think the Department would simply just accept the answers that were provided?

Mr. Dewhurst. So, again, I think as an accommodation to the committee, I'll allow to you answer that question.

Mr. Davidson. I guess can I just say, I'm not aware of any effort or plans to prosecute anyone for not filling out a Census form.

Mr. Castor. We've taken testimony of the Commerce Department officials, the Census officials, that have said there's never been any discussion about prosecution for somebody to, you know, fail to reply to the Census; or any other information provided on the Census has never been part of a prosecution plan? Is that consistent with your understanding of that?

Mr. Davidson. Yeah, I've never heard of any such plan.

BY MS. JOHNSON:

Q If you spoke to a person, a neighbor, or a friend who said that they did not intend to return their 2020 Census form, how would you respond to that person?

A Hypothetical. I guess I would ask them to do their civic duty.

Q So you would encourage them to return the form?

A I would.

Q Would you explain to them the benefits of returning the Census form to the economy?

A Again, we're kind of getting into a hypothetical conversation; but I would try to marshal arguments to convince them to fill out their Census form.

Q Okay. Do you plan to return your Census form?

A Certainly.

Q You -- in response to my Democrat colleague's questions, you said within the

first week, certainly the first few days you had a briefing with Izzy Hernandez about multiple issues related to work at the Department of Commerce including the Census and the citizenship question.

Can you tell me what other issues did Mr. Hernandez discuss with you at that first meeting?

Mr. Hull. Again, I'm going to caution the witness to keep in mind his confidentiality obligations. Talk very generally about it. I think that would be okay.

Mr. Davidson. I can give you some -- again, I don't remember exactly the list that he gave me or the list that he ticked through. I believe it was he was doing it from memory or notes, but likely included a number of trade issues, NOAA issues. There were many, many things going on at that time. I just remember, literally, having lines of people waiting to talk to me in my office about important issues that had been kind of pent up in the time before I got to the Department.

BY MS. JOHNSON:

Q And in the terms -- in terms of the amount of work that you had first few weeks that you came on board, would you say that the citizenship question was a frequent topic or did you spend the majority of your time working on non-Census-related issues?

A Well, you know, my memory, my recollection is that that was one of many issues. I can't give you a specific percentage, but there were many issues that I was trying to get my arms around at that time.

Q We heard from other folks that trade was a big deal. Space issues were a big deal, that the Department was refocusing on aquaculture issues and revamping their strategic plan going forward. In terms of the allocation of your time in the fall of 2017, how much -- can you give me a general sense of how much time you spent working on

those issues versus issues related to the Census and the citizenship question?

A My memory of that period -- and you're talking about kind of, like, August through the fall?

Q August to December, 2017.

A The vast majority of my time was spent working on trade issues is my best memory of that. There were a number of different things that were in play that had complex legal questions involved. So, spending the majority of my time on trade issues, and there were -- I recall a number of NOAA-related issues as well that took up quite a bit of time.

Q And how many meetings do you recall having with the Secretary on trade issues?

A Many, many meetings.

Q Was it more meetings than on the citizenship question?

A The issues that were involved in trade spanned a number of different issues, and, so, I would say the majority of the meetings that I had with the Secretary were on trade-related, in that basket of issues, and, yes, it would have far outweighed the time that I'd been spending on citizenship questions.

Q In a given week, how many meetings do you think you would have with Secretary Ross?

Mr. Hull. Again, are you talking about specific timeframes?

BY MS. JOHNSON:

Q Just generally, how many meetings do you have with him on average every week?

A I wouldn't say that there was a real average. There are times when he's out, and out and about, and there are no meetings and there are times when, you know,

when, for example, I particularly remember the time when some of these trade issues were coming to the fore, and there was more frequent contact with the Secretary in those weeks.

Q Is a week where there are 10 meetings with the Secretary, is that a common week, a common occurrence when he's in town?

A Are you talking about the time period that we're talking about in the fall, or just generally?

Q I'm talking about, generally, the amount of time you spent trying to allocate your time and response to the Secretary's needs.

A I would say that I, you know, I get involved in issues and meetings with the Secretary when there are legal issues that come to the fore. So, that really, it goes up and down quite a bit. It's difficult for me to generalize --

Q Okay.

A -- on how many.

Q Would it be fair to say that there could have been meetings from August to December of 2017, about Census issues that you were not involved in?

A Yes.

Q And -- sorry.

Could you be a little bit more descriptive about what trade issues you worked on? I'm not asking for any sort of legal analysis, just generally the trade issues that you were working on at the time.

Mr. Hull. And, again, as you can imagine, this would implicate significant confidentiality concerns; but to the extent the witness can give very general topics, I think that would be okay.

Mr. Castor. Yeah, I think we're trying to better understand. He's the general



counsel of the Department, chief legal officer. The Commerce Department has a huge and massive portfolio.

Mr. Hull. I understand.

Mr. Castor. And the Census piece, from our understanding, is really small; and there's a couple of issues. To the extent you can sort of, you know, help verify that understanding that, you know, you weren't the chief legal officer for the Census. You were the chief legal officer of the Commerce Department, and that's a massive undertaking.

Mr. Davidson. So, can you repeat the question?

BY MS. JOHNSON:

Q Sure. Can you give me a general sense of the trade issues you were working on when you first started in August through the end of 2017, and other topics, not just trade? You know, you spoke generally about NOAA.

A Okay. I think, generally, I can do broad categories. So, I guess it's publicly available information as well. So, there was quite a bit of time dealing with issues that were kind of on the national security and trade nexus. So the, you know, Section 232 discussion, that is a statute that had not been used too much over time. So, it required a lot of, you know, legal analysis. I'll get to that. I spent quite a bit of time on that.

There were other discussions about national security matters and investment in the United States and whether there needs to be reevaluation and any kind of reform of the statutes and regulations along those lines. There were also discussions of trade negotiations and kind of generally what the parameters of those would be, and those were often included, USTR. So, that's kind of a -- that gives you a little bit of landscape on the trade side.

On the NOAA side, you know, NOAA is probably close to two thirds of the people

in the Department of Commerce, and they have a number of different regulatory and other legal matters they put out, a large number of regulations over the years, and those tend to be very litigation-intensive.

So, again, kind of high-level issues. There are a lot of, say, you know, endangered species issues, Magnuson–Stevens Act issues, Fishery Council's decisions, things like that; and a number of those issues were popping at the time. So, that occupied quite a bit of my time.

Q Were you an expert in NOAA issues before you joined the Department?

A I was not.

Q So you were not an expert in Census issues, and you're not an expert in NOAA issues. So, were you an expert in trade issues that you just mentioned?

A Well, I don't know if I can consider myself an expert. I had history in trade issues, yes.

Q So, you had some knowledge of trade.

A Yes.

Q So, it's fair to say that you had a lot of catching up to do when you joined about issues that you had previously not had any knowledge about?

A That's accurate.

Q How many people worked for you in the General Counsel's Office at the Department?

A Well, let me answer that question a couple of different ways. There are 400-plus lawyers in the Department of Commerce throughout all 13 bureaus, and then we have a somewhat smaller group that's in the Office of General Counsel, which is about 140, 150 or so that directly report up, but overall, you know, the General Counsel's Office is responsible for the legal advice given by all of the people within the Department.

Q So, of the 13 component parts of Department of Commerce, they all eventually report to you and the people in your office and the General Counsel's Office's department?

A They do report to me, with some caveats, in the sense that there are some statutory requirements of independence for things like PTO lawyers on patent cases, for example. I would not -- I would not be able to intervene in a patent case. So, the bureaus that have those type of restrictions have FirstNet, PTO, NOAA, and maybe some NTIA, yeah, NTIA aspects, too.

So, the answer to your question is a qualified yes.

Q Okay.

A With those exceptions.

Q But if there was a major patent case that PTO was working on, you would certainly be aware of the case, and have knowledge of the issues in the case at issue?

A So, let me interpret what you mean by "case." So, that if it is a -- if it is a -- it is a PTO action that has being litigated, yes, I would be aware of that. If it had policies implications for the Department, then I would be aware of that. I would not be involved in the granting of, or denying any patents at the initial levels.

So, I don't -- I cannot get involved in any of those activities; but generally what I would say is the administrative policies, broader litigation matters would be where I would be engaging with PTO.

Q Okay. But if someone, after PTO, took an action on a patent request, and someone pursued litigation over that decision, then you would -- could become aware of action being taken?

A My memory is that the cases that I've been getting involved with were much -- at much later stages of litigation. So, they would be things that were, perhaps,

the Solicitor General was asking for opinions of the Commerce Department's views on, and those are getting much more kind of into the legal policies realm, but those -- those are about, you know, major cases. It's -- you know, I don't get involved. The solicitor's office at the PTO does more of the litigation issues that you're referring to.

Q Do you believe that a citizenship question should be asked on the 2020 Census?

A I have a role as a general counsel at the Department of Commerce to provide legal advice to the Secretary in looking at matters and I don't -- you know, being opining on that is not necessarily my -- in my lane.

Q Do you agree with the Secretary's rationale that was laid out in his decision memo?

A The rationale that was laid now the decision memo and the process that was followed in the Secretary reaching his decision I think is a legally justified position.

Q I'm going to enter --

Ms. Johnson. Did you all have any -- Exhibit 1?

Ms. Anderson. We didn't have Exhibit 1.

[Davidson Exhibit No. 1

Was marked for identification.]

BY MS. JOHNSON:

Q So, this is Secretary Ross's decision memo; and it is March 26, 2018. Are you familiar with this memo?

A Yes.

Q And you previously reviewed the memo in your capacity as general counsel?

A Yes.

Q And do you know who drafted the first draft of this memo?

A I don't have -- no, I don't know who drafted the first draft.

Q Okay. Do you think that -- believe that James Uthmeier may have draft the first draft of the memo?

A I'm not -- I don't know who drafted the first draft.

Q When do you recall first seeing a draft of Secretary Ross' decision memo?

A I don't recall when it was that I saw it.

Q Was it in January or February of 2018?

A I have no recollection of, you know, when I saw a draft.

Q Okay. Do you remember if you provided any feedback on the memo when you first saw it?

A I don't. I don't remember if I provided feedback, no.

Q Do you recall any feedback that Secretary Ross provided about any drafts of the memo?

A If I could just take a step back for a moment and kind of set the scene for what was going on here. There, you know, starting in 2018 I did not -- I was not involved in the citizenship question or Census issues generally. At a high level, kind of supervisory level, I was aware of things; but I was not involved in the day-to-day legal activity, drafting, as I had assigned those assignments to other attorneys in my office at that time. So, I was not -- was not involved in the day-to-day legal activities --

Q Okay.

A -- which is kind of a category of things you're asking about in terms of the memo.

Q You said you had 140 or so people in the General Counsel's Office directly working for you. How many of those people worked on Census issues?

A Well, I don't know. That's a good question. Probably --

BY MR. CASTOR:

Q Maybe you can just talk to us about how those 140 individuals are allocated?

A Sure. So, as I mentioned before, it's a little bit of a dichotomy, but there are -- there are people that are kind of within the actual Office of General Counsel, and then there are a lot of lawyers that are not necessarily involved in General Counsel, but work in the bureaus, but that also interacts through legal process.

So, I think the answer to your question would be a two-part answer, and I don't actually know the numbers on each one of them, but there would be OGC people that are actually within OGC working on Census issues; and then there are people within the -- lawyers within the Census Bureau that are also working on Census issues.

So, I guess the answer to your question is, if I could make a best guess, would be that there are, you know, a lot of lawyers working on Census issues.

Q Okay. Maybe, could you just explain how the OGC is set up in terms of how many deputy general counsels, because that might inform our members --

A Sure.

Q -- sort of the massive responsibilities you have.

A Sure. The General Counsel's Office is set up, although there have been kind of people moving in and out of different positions, but it has general counsel at the top. It has deputy general counsels next. Then there can be senior counsels as well.

Q How many deputy general counsels are there?

A We have two political right now, and then a career deputy as well, and then we have the next layer is the associate general counsels, and they're work in three general areas: One is regulation and legislation; the other is litigation, employment law; and the third is kind of administrative law/contracts, those types of things, grants.

And so those AGCs have staff that kind of sit over and provide common advice to

the bureaus on a lot of the issues where they become specialists, so that they don't -- those people don't have expertise on grants or contracts or necessarily in of each of much their bureaus. So, they're resources for the bureaus.

And then below that, there are chief counsels for each bureau; and then below that, it varies. You know, NOAA has a huge -- so, we have a general counsel of NOAA and then there are a lot of attorneys that are in that and then, you know, FirstNet would be smaller structures. So, it kind of goes out from that.

BY MS. JOHNSON:

Q So, there could be several political and nonpolitical staff working on the Census issues?

A Absolutely, yes.

Q Okay. Do you know if, or when the Department began developing alternatives responses to the Department of Justice's December 12th letter?

A I don't know when.

Q Were you aware of any of the alternatives being presented to the Secretary with respect to the citizenship question request from the Department of Justice?

A I was.

Q When did you become aware of those options?

A I'm not sure exactly when I was aware, but they were being discussed during that time period.

Q And so, it's fair to say that your office provided some input on the legal issues surrounding this Secretary Ross's March 26th memo; is that correct?

A Yes, as I mentioned before, that, you know, the day-to-day work on these issues I handed off to other people, so, they were doing that work. But there were people inside my office, and I'm sure people outside of my office that were working on

these issues as well.

Q Would it be would fair to say you handed off this memo to James Uthmeier?

Mr. Dewhurst. Just on the specific formulation of that issue, I think, first of all, I think he's sort of answered that otherwise; but when you're getting into the direction the general counsel gave the senior counsel, I'm just going to caution the witness on that response.

Mr. Davidson. If you could rephrase the question, I'd be happy to try to answer.

BY MS. JOHNSON;

Q At any point, did you hand the sort of legal questions off to someone else in the Department? Who did you delegate that to?

A Yes. So, we had around that, the beginning of the year or so, we had a -- my deputy at the time, Mike Walsh, came in and, you know, Mike was working on -- I asked Mike to work on the Census issues, handle the Census portfolio.

Q Were you aware that Secretary Ross has monthly status meeting with the Census Bureau on the 2020 Census?

A I'm aware that he has regular briefings on the 2020 Census from the Census Bureau. I don't know that they're monthly, but I'm aware they're regular.

Q Okay. Did you -- have you participated in any of those regular briefings since joining the Department?

A Yes.

Q How many do you think you would have joined, do you recall joining?

A Well, my recollection is that, you know, not only were there regular status meetings, but there were a lot of other meetings as well. So they kind of blend together for me. But these are probably, on average, 2- to 4-hour meetings. You know, my recollection is they are soup to nuts about a lot of issues that are going on in preparing



for the 2020 Census.

Q Uh-huh. And would you -- you were aware of other issues, not just related to the citizenship question, that faced the 2020 Census?

A Yes.

Q Can you tell me what those issues that you're aware of are not related to the citizenship?

Mr. Hull. And, again, Counsel, I would tend to caution the witness to keep in mind his confidentiality obligations.

Mr. Davidson. Yes.

Mr. Castor. I guess what we're trying to get at here is we're gearing up for the Census that happens every 10 years. It's a pretty big undertaking. As technology is, there's a lot of technological enhancements in the Census process. There's just a lot going on with the Census and it might just be helpful to walk through some of the big issues affecting the Census, and at the same time, helping us understand that the citizenship question was a -- it's the same, but it's not the only consideration as we're heading into the 2020 Census.

Mr. Davidson. So, I think I can give an overview of kind of the baskets of issues. So, I'd say kind of the overwhelming issue that was being discussed at the time was funding and resources. So, there was a fairly comprehensive audit that I think predated my arrival to the Department, at least getting people going on it.

So, there was a lot of activity and discussion about those types of issues. To the extent that there were not legal issues involved with that, I was not involved; but I was aware of what's going on.

There were a number of other issues that I don't think I can get into because there were -- they were kind of legal contracting-type issues that occupied quite a bit of time by

folks in the Department.

You had mentioned in your question the technology issues. So, the decision had been made in the prior administration to move to more of a technology-based system, just to roughly characterize that; and there were a lot of transition issues, some of which were legal in respect to that.

I may be leaving out some other categories, but there was just a lot of review on all of those issues.

BY MS. JOHNSON:

Q You said that the funding issue that you were aware of started, I guess, analysis of the funding issue came before you got there?

A My -- you know, again, I don't -- I wasn't that intimately involved in it, but it must have started before I got there because, it was well underway by the time I arrived.

Q And so Secretary Ross announced the, I guess, updated life cycle cost estimate when he testified before our committee in October of 2017?

A I think that was -- yes, I think that's right. I don't have a recollection of that exactly but...

Q To your knowledge were there any -- I'm not asking for the specific legal issues but were there legal issues surrounding the funding, additional funding, that the Secretary was going to request?

A I'm trying to remember legal issues. I don't remember specific legal issues. I don't remember anything specific on the legal side there. I'm sure there were, but I don't remember anything specific on that.

Q Okay. Can you recall other -- you said you knew there were contracting issues that you provided legal analysis for. You said you provided legal work on the citizenship question. Did you provide -- were there any other issues that you recall

having sort of a legal take on?

A I mean, I think there were -- you mentioned earlier the, you know, Title 13 protection of data. I do remember having discussions about that in the meetings. It wasn't -- part of the -- as I remember these meetings -- and not all of these meetings had the Secretary in them as well. So, some were outside of the Secretary; some were getting ready to brief the Secretary. So they all kind of run together to me.

But it's not always evident that legal issues are going to be present going into a meeting like that. Sometimes they would arise in the meeting, and then people would ask questions. And so, and I, you know, I was not -- I was certainly not present in all of these meetings either. That would have taken my entire time up there.

Q So, in Secretary Ross' decision memo, he selects Option D, which places the citizenship question on the 2020 Census questionnaire, and also, asks for enhanced use of alternative records to better enumerate citizenship status.

Is that your understanding of Secretary Ross's decision memo?

A That's an accurate description.

Q Okay. Do you know -- can you tell us what steps the Department has taken to execute Option D that Secretary Ross cited? Obviously, we have the citizenship question being placed on this 2020 questionnaire. But what actions do you know that have been taken to gain additional administrative records?

A Well, again, I have to say that I was not involved in the day-to-day and the granular aspects of that. I was kept generally aware of some of those activities. So, you know, my understanding is that the Census Bureau was working on plans in terms of, you know, they have existing sources of administrative records; and they were trying to get more accurate sources of administrative records as well. I know that they were working on that, coordinating, I think, with other government agencies.

Q So, it's the lawyers -- it's a lawyer-led process at the Census Bureau?

A Well --

Q Let me rephrase.

A Yes.

Q It's the lawyers at the Census Bureau who are taking into account and reaching out to lawyers at the other agencies to try and obtain the administrative records?

A My general understanding of how that outreach occurred is -- and I don't know whether they were lawyers or not lawyers that did it, but my understanding is that there are relationships among administrative agencies generally, and someone is looking to see what data can be used to verify information. So, I'm sorry. I don't -- I'm not in the weeds on that.

Q But you, in order to obtain records from -- administrative records from other agencies, you have to have some sort of Memorandum of Understanding in order to get those. Is that correct?

A It's my understanding. I was not involved in the drafting of any of those.

Q Okay. So, is it the Census Bureau who drafts those?

A It's my understanding that that's the Census Bureau are the, you know, the experts lawyers on drafting those documents.

Q Does your office review those documents?

A I can't tell you whether the administrative, the what's called ADTRAX, the Associate General Counsel for Administrative Law, basically has reviewed those or not.

Q To your knowledge, do you have any?

A I'm not aware that they reviewed those, but they regularly review those types of MOUs and documents.

Q So you don't know what agency the Census Bureau has contacted for administrative records?

A I do not specifically know. I don't know myself who they reached out to.

Q But you know that someone has been contacted and that someone will obtain -- administrative records will be obtained pursuant to the Secretary's decision memo?

A I know that -- I know generally -- I'm generally aware that there has been, for quite some time, an effort underway to develop better administrative records, and that that is, you know, that's continuing.

Q Okay. Did you know that the Census Bureau was working to try and gain citizenship -- better citizenship administrative records before this administration?

A I can't tell you I have a distinct memory of that or an actual memory of it, but it was my impression that this has been a, you know, broad-based effort across administrations over the years in terms of getting more accurate information for the Census. So, my general impression is that they have been working for some time to get that information together.

Q Were you aware of any other questions or additions or subtractions to the 2020 Census questionnaire?

A Could you rephrase the question?

Q Sure. Did you know, or were you aware of any other concerns or issues surrounding the 2020 Census questionnaire not related to citizenship?

A In terms of what questions were asked on the 2020 Census?

Q Or what responses were offered to people. If I told you the Obama administration was looking at additional responses on, you know, on, you know, LGBTQ issues, or did you know about that or Middle East, North Africa issues?

A Yes, I was aware of those other issues, yes.

Q Okay. And did you provide any sort of analysis on those issues?

A Did I personally?

Q Did you -- did you personally weigh in on those topics? Just yes or no.

Ms. Johnson. I don't need to know what he said.

Mr. Dewhirst. Did he -- I think you can answer.

Mr. Davidson. Again, you know, not being an expert on those issues, I don't recall having weighed in --

BY MS. JOHNSON:

Q Okay.

A -- on those issues.

Q Okay. So, I mean, I think what is clear from this is you are a good lawyer, but don't know that much about the Census. Is that fair?

A Thanks for the backhanded compliment.

Q I mean, I would say that I have not been working on Census issues that long either; but I'm also not a lawyer. So, I don't provide any sort of legal counsel to anyone. I rely on Steve for that.

Mr. Castor. I just want to recap a couple of things.

Ms. Johnson. Sure.

BY MR. CASTOR:

Q You never spoke to Hofeller, never heard of him, right, until The New York Times article came out?

A I don't remember ever having spoken to Hofeller, and I do not remember honestly ever hearing his name until I read about it in that Axios article.

Q You never spoke to Steven Miller, the White House staff?

A I don't believe I've ever spoken to Stephen Miller, no.

Q You never spoke to Kris Kobach?

A I don't believe I've ever spoken to Kris Kobach. I don't --

Q Never spoke to Steve Bannon?

A I don't believe I've ever spoken to Steve Bannon.

Q And you've never spoken to the President of the United States.

A I don't believe I've ever spoken to the President, no.

Q Does it surprise that you there's this narrative out there that it's Kobach and Steve Bannon and Steven Miller and Hofeller and all these people are out there strategizing about the Census, when in reality, these people don't seem to, at least from testimony we've been able to provide, have had any roles? Does it surprise you this narrative has been created about their involvement when, in fact, we don't have any evidence of it?

A I guess all I can -- all I can tell you is that, you know, my involvement with this issue, from my personal experience, is I have not been aware of contacts in that regard. So, I can't opine one way or the other on that. It's just in my experience I did not experience discussion of issues with any of those people.

Q But you're the top official at the Commerce Department. Census is a pretty significant issue. If there was this shadowy bunch, you know, shadowy cabal trying to influence the 2020 Census, don't you think you'd know about it?

A I don't know how to answer that question. I was not aware of, you know, contacts. So --

Q Okay. So, you never spoke to Steve Bannon. You never spoke to Kris Kobach. You never spoke to Stephen Miller. You never spoke to Hofeller. You never spoke to the president. You're the top lawyer at the Commerce Department, right?

A Yes, I am, yes.

Mr. Castor. We're good for now, maybe forever. All right.

Ms. Johnson. Go off the record. Thank you.



[11:53 a.m.]

Ms. Anderson. We can go back on the record. It's 11:52, and we'll start our second hour.

Mr. Anello. I wanted to just follow up on a couple of the answers you gave in the last hour.

Mr. Davidson. Sure.

Mr. Anello. You said that you believe that the decision and the process that was followed regarding the citizenship question was legally justified. Is that right?

Mr. Davidson. Legally sufficient, yes.

Mr. Anello. Legally sufficient. So what was the process that was followed?

Mr. Dewhirst. I'm going to instruct the witness not to answer, as that implicates executive branch confidentiality and litigation concerns.

Mr. Anello. The process that was followed in order to add a citizenship question?

Mr. Dewhirst. Same instruction.

Mr. Anello. Okay.

On what basis did you determine that it was legally justified?

Mr. Dewhirst. Same instruction to the witness. It definitely implicates executive branch confidentiality and litigation concerns.

Mr. Anello. On what basis did you determine that the decision was legally justified?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Did you make that determination before today?

Mr. Dewhirst. He's testified to that. But to the extent you're asking him to --

Mr. Anello. No, he didn't --

Mr. Dewhirst. -- tell you what he's previously testified, then I'm instructing the witness not to answer.

Mr. Anello. Did you make the determination that this decision and the process that was followed was legally justified before you were asked about it today?

Mr. Davidson. I came to that conclusion after reviewing the Secretary's process of decision-making.

Mr. Anello. So when did you come to that conclusion?

Mr. Dewhirst. Any more details on this process are going to implicate executive branch confidentiality and litigation concerns.

Mr. Davidson. Before today.

Mr. Anello. Was it before the Secretary made his decision?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. I'm honestly just trying to get a clarification, is it something you came up with reading the newspaper, or were you part of a process where you opined on the legal sufficiency of the process and the decision?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. I'm asking did he conduct the analysis and come to a conclusion. I'm not asking what the conclusion was or what analysis he conducted. I believe, as a general counsel, he should be able to tell me whether he looked at an issue or didn't look at an issue.

Mr. Dewhirst. I appreciate what you think the general counsel should be able to tell you, but he is the general counsel, and I'm instructing the witness not to answer because it implicates executive branch confidentiality and litigation concerns.

Mr. Anello. So, to be clear, you're instructing the witness not to answer whether the general counsel made a determination about whether the Secretary's decision on

March -- I believe it was the 26th, 2018, was legally sufficient. Is that correct?

Mr. Dewhirst. He's already testified to that.

Mr. Anello. Well, he's testified today he thinks it's legally sufficient. I'm asking whether he made that determination before the decision was announced publicly.

Mr. Dewhirst. He's just answered the specific question that you're repeatedly asking him. To the extent you're asking him to provide more information than he has, I'm instructing the witness not to answer.

Mr. Anello. I'll repeat the question.

Did you make the determination that the Secretary's decision and the process that was followed by the Secretary to come to that decision was legally sufficient before he announced his decision?

Mr. Dewhirst. It's the same instruction to the witness.

Mr. Anello. Well, you just told me he answered the question. So I don't think he --

Mr. Dewhirst. The question you were asking previously --

Mr. Anello. Let me just finish. He can't both be instructed not to answer it, and you can't -- and be told that he did answer it.

Mr. Dewhirst. Sorry. The reason I'm cutting you off is because you're sort of moving from observation to observation. I'm not sure which one you want me to address.

The question that you were talking about a minute ago that he didn't answer was whether he had made this determination before today. He has testified that he made that determination before today.

He's also made the determination that he did determine that it was legally sufficient.

Beyond that information --

Mr. Anello. And so what I'm trying to understand is whether he made that determination before the Secretary announced his decision. That's the question.

Mr. Dewhirst. Okay.

And I'm giving you the same instruction.

Mr. Anello. So we have it on the record, is the instruction that he's not allowed to tell us whether he opined on the legal sufficiency of the Secretary's decision before the Secretary announced it?

Mr. Dewhirst. That he opined on --

Mr. Anello. Correct.

Mr. Dewhirst. -- the legal sufficiency?

Mr. Anello. Correct.

Mr. Dewhirst. Yeah, it's the same instruction to the witness.

Mr. Anello. So what is the instruction? Is the instruction not to answer? Because if not, I'd like him to answer.

Mr. Dewhirst. I don't think I've given him any other instruction, so, yes, it's the same instruction, not to answer because the question implicates executive branch confidentiality and litigation concerns.

Mr. Anello. Did you have concerns about the legal sufficiency at the time, of the legal sufficiency of the Secretary's determination?

Mr. Dewhirst. Yeah, same instruction.

Mr. Anello. Did you have concerns about the legal sufficiency of the process that the Secretary followed?

Mr. Dewhirst. Same instruction.

Mr. Davidson. He's asking me questions that are at the core of my

responsibilities as a general counsel and executive department attorney. That's really --

Mr. Anello. Well, these are also at the core of our investigation. And we have a lot of evidence that the process that was followed was not consistent with the process that the Secretary talked about publicly. And we have been seeking information to understand what really happened.

This is something that is within the jurisdiction of this committee, and we have every right and responsibility to ask these questions. These are not, as far as I know, subject to any kind of executive privilege, these discussions. And as public servants at the Department of Commerce, I think you all ought to be answering these questions.

Mr. Dewhirst. Well, speaking of opining, I appreciate that the committee has the right to ask whatever questions it wants, but this is a voluntary, transcribed interview with the general counsel of a Cabinet agency, and we will instruct the witness not to answer when it's appropriate. So the instruction stands.

Mr. Anello. I understand.

BY MR. ANELLO:

Q You said during the last hour that in 2018 you stepped away from Census issues, from working on them directly. Is that correct?

A Well, I didn't say that I stepped away; that I had other attorneys that were focusing on the day-to-day activities of Census legal issues.

Q And you mentioned Mike Walsh?

A He came on board, I think, sometime in early January as a deputy.

Q And did you assign the Census issues to him?

A I asked him to coordinate those issues, yeah.

Q Did you assign the citizenship question --

Mr. Dewhirst. To be clear, on that last question, that answer was provided as an

accommodation to the committee.

Sorry. Proceed.

Mr. Anello. Did you assign the Census issues to Mr. Walsh?

Mr. Dewhirst. Again, I think you're getting into the question of what the general counsel directed his subordinates to do in furtherance of their duties. However, because he has answered that question, as an accommodation, we'll allow him to answer it again.

Mr. Davidson. Yes.

Mr. Anello. Okay. Did you assign the citizenship question or issues surrounding the citizenship question to Mr. Walsh?

Mr. Davidson. My recollection of that, it was part of the Census issues that I asked Mike to work on.

Mr. Anello. Was there a particular reason that you asked him to work on that issue?

Mr. Dewhirst. Again, that's -- no. I'm instructing the witness not to answer. That implicates executive branch confidentiality and litigation concerns.

Mr. Davidson. Well, I'm --

Mr. Dewhirst. If there's a way you can answer without implicating those concerns --

Mr. Davidson. He's the only one I had, he's the only deputy I had to do that, so he was -- yeah, he was he was the one I asked to do it.

Mr. Anello. And was that an issue that, before he came on board, you had been personally handling?

Mr. Davidson. I had handled aspects of it.

Mr. Anello. And why did you personally handle aspects of that issue?

Mr. Dewhirst. I'd caution the witness. If you can answer without implicating executive branch confidentiality and litigation interests, you may.

Mr. Davidson. I handled several issues. That was one of them.

Mr. Anello. But why?

Mr. Davidson. The same reason I handled other issues. They were important legal issues before the Department of Commerce.

Mr. Anello. So you didn't handle personally all legal issues, obviously, before the Department of Commerce.

Mr. Davidson. No.

Mr. Anello. Right. You're just one human being, and you could only handle a limited number. So why did you believe that was one of the important issues that you needed to handle personally as opposed to delegating it to somebody else?

Mr. Hull. This question gets into obvious confidentiality concerns here. So, to the extent you can answer it without breaching that, you certainly may.

Mr. Davidson. Yeah, I mean, I handled many, many -- I mean, I handled many issues personally. I worked on many issues personally.

Mr. Anello. Okay. But I'm only asking about this one.

Mr. Davidson. I know. I'm not just telling you, there's --

Mr. Anello. Right.

Mr. Davidson. I mean, it wasn't neat for me to work, you know, on an issue. I worked on issues. I personally worked -- I guess that's what "personally" means, right? I personally worked on issues.

Mr. Anello. So why did you work on this one?

Mr. Dewhirst. Same instruction to the witness. It implicates executive branch confidentiality and litigation concerns. To the extent you recall.

Mr. Davidson. I mean, I guess what I would say is that, you know, the general counsel would deal with issues that -- you know, important issues before the Department.

Mr. Anello. So would it be fair to call this one of the top -- the most important issue before the Department?

Mr. Dewhirst. I'd caution the witness as I have previously. If you can answer that in a way that's --

Mr. Davidson. Okay. I mean, I've tried to give you some perspective on the amount of time that I spent on different issues. So is that your question, how much time did I -- relative to other issues?

Mr. Anello. No. My question is this: So you indicated that this was one of the issues you personally handled, at least until Mr. Walsh came on board and you assigned it to him. You also indicated that, as a general counsel, you can't work on every issue. I think we heard about the hundreds of lawyers that worked for you and the dozens of -- maybe not dozens -- 13 operating divisions that have lawyers. I think there were a total of 500 lawyers.

So you can't do the work of 500 lawyers. You can only pick the issues that you think it's appropriate for you to work on. And somehow this rose to the top, and I'm trying to understand why. I think you said you work on many issues, but there is obviously a selection process that you have to go through. So I'm asking, why?

Mr. Dewhirst. To the extent you recall and you can answer that question without disclosing executive branch confidentiality and litigation concerns.

Mr. Davidson. Maybe you could rephrase it in a way -- I'm not really understanding how to answer the question. Can you --

Mr. Anello. You said that you chose to work on issues that were important to



the Department, correct?

Mr. Davidson. Well --

Mr. Anello. Why was this one important to the Department?

Mr. Davidson. There were -- I mean, I don't --

Mr. Dewhirst. You asked two questions there. So which one do you want him to answer?

Mr. Anello. Okay. Why was this issue important to the Department?

Mr. Dewhirst. To the extent you can answer that without implicating executive branch confidentiality and litigation concerns, you can.

Mr. Davidson. Okay. I mean, I think I testified earlier that it was brought to my attention as an important issue before the Department. So it's a little --

Mr. Anello. So did you think it was important just because somebody told you it was important, or do you have an understanding of why it was important?

Mr. Dewhirst. Same instruction to the witness.

Mr. Davidson. I don't know how better to answer that question.

BY MR. ANELLO:

Q So can you not answer it because of the instruction, or do you not know that?

A Well, I don't quite know -- I don't quite know how to answer your question. Can you be a little bit more precise in how you ask the question? Because I'm happy to answer it.

Q I've tried to --

A I'm just trying to get to -- I know. I'm just trying to --

Q I think it's a pretty basic question, which is: For what reason did you decide to work personally on the issue of the citizenship question?

Now, you've said it was important. I'm trying to understand why you believed it was important and worthy of you spending your time on it.

A Okay. That's what I'm trying to understand, is that, when issues come to me, they have usually been around the Department and they come to a certain level. Someone was talking a little bit about the trade issues or some of those things. I'm asking myself, why did I get involved in those issues? I don't know that I can answer you that question either. It's because they just -- you know, they, I guess, appeared to be important issues given where I was at the time.

I don't really know how to answer the question any better than that.

Ms. Anderson. So, after you became aware that this issue was important in August of 2017, did Secretary Ross ever ask you to do anything regarding the citizenship question?

Mr. Dewhirst. Again, to the extent you recall, you can answer it, but I believe that question calls for information that implicates executive branch confidentiality and litigation concerns.

Mr. Davidson. I don't have a specific recollection of what he asked me to do.

Ms. Anderson. Did Earl Comstock ever ask you to do anything?

Mr. Dewhirst. Same instruction to the witness.

Mr. Davidson. I don't have a recollection of Earl asking me or directing me to do anything.

Ms. Anderson. Did anyone else ever ask you or direct you to do anything regarding the citizenship question?

Mr. Dewhirst. Same instruction to the witness.

Mr. Davidson. My memory was, I'm not sure who, but someone asked me to do something.

Ms. Anderson. What did they ask you to do?

Mr. Dewhirst. Again, instruct the witness not to answer, as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. When did that person ask you to do something?

Mr. Davidson. I don't recall when it was. It was in the fall.

Ms. Anderson. Of 2017?

Mr. Davidson. Yeah. And, again, I'm not -- I mean, I can't remember who asked a question, but --

Ms. Anderson. Did they ask you to answer a question or ask you to do something?

Mr. Dewhirst. I would caution the witness to tread carefully, as this implicates executive branch confidentiality and litigation concerns. To the extent you recall.

Mr. Davidson. My recollection was they suggested that I do something.

Ms. Anderson. Is that person inside the Department of Commerce?

Mr. Dewhirst. Same instruction.

Mr. Davidson. Again, I don't --

Mr. Dewhirst. No. I'll withdraw the instruction.

Mr. Davidson. Okay. I don't recall who it was.

Ms. Anderson. Did you take that suggestion?

Mr. Dewhirst. I'm renewing the instruction.

Ms. Anderson. What --

Mr. Dewhirst. I'm going to instruct the witness not to answer, as that calls for information that implicates executive branch confidentiality and litigation concerns.

Ms. Sachsman Grooms. So you don't remember if a person who asked you to do something was inside the Department or outside the Department?

Mr. Dewhirst. I also don't think that was specifically his testimony.

Mr. Davidson. What I said was I don't remember who asked me to do something.

Ms. Sachsman Grooms. Okay. Do you recall if the person who asked you to do something -- I understand you don't recall who the person was, but do you recall if it was a person inside of the Department or a person outside of the Department?

Mr. Davidson. My recollection is generally that it was someone inside the Department.

Ms. Sachsman Grooms. Do you recall whether it was somebody who was your subordinate or somebody else in the Department?

Mr. Davidson. I don't think it was someone who was my subordinate.

BY MS. ANDERSON:

Q How many times did you discuss the citizenship question with Secretary Ross from when you started until you received the letter from the Department of Justice in December of 2017?

A I don't recall how many times.

Q Can you give an approximation?

A Would this be including meetings with the Secretary?

Q If you discussed it with him, then yes.

A I don't know. I'm wrestling with this answer a little bit, because there were so many meetings. I'm not sure how many of those arose -- I'm sorry -- when the citizenship question arose, in how many meetings. So that's what I'm kind of wrestling with.

Q So why don't we start with, do you have a personal recollection of discussing the citizenship question with the Secretary? And, if so, how many times?

A I don't have a personal recollection. I mean, I'm trying to remember an instance when I spoke with him about it, and, sitting here 2 years later today, I don't remember an instance when that happened.

[Davidson Exhibit No. 2

Was marked for identification.]

BY MS. ANDERSON:

Q I'm going to hand you what's now marked as exhibit No. 2.

A Okay.

Q It's an email from September 16, 2017, which contains a memo from September 8, 2017, from Earl Comstock to Secretary Ross.

The final paragraph, Mr. Comstock wrote: At that point, the conversation ceased, and I asked James Uthmeier, who had by then joined the Department of Commerce Office of General Counsel, to look into the legal issue and how Commerce could add the question to the Census itself.

Do you recall when you first spoke with Mr. Comstock about the citizenship question?

A I don't.

Q Okay. Do you recall if anyone else was present during conversations you had with Mr. Comstock about the citizenship question?

A Well, I don't recall when I had a conversation with him. I would imagine that during the meetings in which the citizenship question was raised that he and I were both present.

Q And those are the people you mentioned earlier. Is that correct?

A I think so, yeah.

Q Did you ever discuss with Mr. Comstock the reason why the Department had

an interest in the adding a citizenship question?

A I don't believe I did.

Q Did you ever speak with Mr. Comstock about why he had an interest in adding a citizenship question?

A I don't believe I did.

Q And you said before that you first spoke with Mr. Uthmeier about the citizenship question about a week after you joined the Department. Is that correct?

A I believe that he brought me the legal memorandum, yes --

Q Shortly after.

A Shortly thereafter, yes.

Q Sure. And did it discuss how the Commerce Department could add the question to the Census itself?

Mr. Dewhirst. I'm going to instruct the witness not to answer, as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. When you first discussed with Mr. Uthmeier the citizenship question, did he discuss or did he mention or did you talk about why the Department was interested in the citizenship question with him?

Mr. Davidson. I don't recall that being part of the conversation.

Ms. Anderson. Do you recall whether he had an opinion at that time whether there was a legally sufficient reason or evidence that you could add a citizenship question at that time?

Mr. Dewhirst. Can you restate that?

Ms. Anderson. Sure.

Do you remember at that time whether Mr. Uthmeier had an opinion on whether there was a legally sufficient reason to add a citizenship question?

Mr. Davidson. I don't recall that he did.

Mr. Anello. Looking at this document that Ms. Anderson just showed you, it says that Mr. Comstock had asked Mr. Uthmeier to look into legal issues and how Commerce could add the question to Census itself. Did you know that he had done that?

Mr. Davidson. I don't recall that he had done that.

Mr. Anello. Did you know that Mr. Uthmeier was looking into the legal issues and how Commerce could add the question to the Census itself?

Mr. Dewhirst. I'm going to instruct the witness not to answer, as that implicates executive branch confidentiality and litigation concerns.

Mr. Davidson. Okay. I mean, I think I've already told them what I remember from that conversation, so --

BY MR. ANELLO:

Q But I'm not asking just about that one conversation.

A Oh. Sorry.

Q I'm asking about what's written here and whether you were aware of whether this occurred.

A Can you rephrase that?

Q Yeah. When you read the last paragraph, it says that Mr. Comstock asked Mr. Uthmeier to look into the legal issues and how Commerce could add this question to the Census itself.

A Uh-huh.

Q So my question is: Are you aware that Mr. Uthmeier did, indeed, look into those legal issues and into how Commerce could add the question to the Census itself?

A I mean, I guess I'm not aware of that conversation between Earl and James. I don't know what more I can say about --

Q Well, are you aware that Mr. Uthmeier looked into legal issues related to the citizenship question?

A I already testified that he did.

Q Okay. Are you aware that he looked into how Commerce could add the question to the Census itself?

Mr. Dewhirst. To the extent you know, you can answer.

Mr. Davidson. I don't recall that. No, I do not recall him bringing that to my attention.

Mr. Anello. Okay. So --

Mr. Davidson. I don't recall a conversation like that.

Mr. Anello. Are you aware of him looking into the issue of whether Commerce could add the question without a request from a different agency?

Mr. Dewhirst. So, with that, I'm going to --

Mr. Anello. Just rephrasing the email. It says "whether Commerce could add the question itself."

Mr. Davidson. Oh.

Mr. Anello. And so I'm asking whether Mr. Uthmeier looked into the question of whether Commerce could add the citizenship question without a request coming in from the Department of Homeland Security, the Department of Justice, or a different agency.

Mr. Dewhirst. To the extent you know, you can answer.

Mr. Davidson. Yeah. I'm sorry, where is that sentence? Add itself?

Mr. Dewhirst. He's still talking to you about this last sentence. He's asking you a question with a slight variation?

Mr. Davidson. I see. I'm sorry. I didn't read that, "itself."

Mr. Dewhirst. Do you want to restate the question one more time?



Mr. Anello. Sure.

So the question is whether you're aware of whether Mr. Uthmeier looked into the question of whether Commerce could add the citizenship question to the Census without first getting a request to do so from a different Federal agency like DOJ or DHS?

Mr. Dewhirst. I think you're building in the type of material that would make it difficult for us to answer that question because of executive branch confidentiality and litigation concerns. But as an accommodation and to the extent the witness knows, he can answer that question.

Mr. Davidson. Yeah. I do not recall that conversation.

Mr. Anello. Okay. So do you know what legal issues Mr. Uthmeier was looking into relating to the citizenship question?

Mr. Dewhirst. Same comment as before.

Mr. Davidson. I mean, my recollection was the list of issues, you know, the memo that he had done before was part of it. My memory is it was a fairly comprehensive list of legal issues, case histories --

Mr. Anello. Such as what?

Mr. Dewhirst. I'm going to instruct the witness not to answer, because that implicates executive branch confidentiality and litigation concerns?

Ms. Anderson. Mr. Comstock, in this memo, talks about contacts he had with the Department of Justice and the Department of Homeland Security. Were you ever made aware that Mr. Comstock or other people from the Department of Commerce had reached out to the Department of Justice prior to you arriving?

Mr. Dewhirst. What was the actual question there again? Were you aware of what?

BY MS. ANDERSON:

Q Did you become aware that Earl Comstock or other people at the Department of Commerce had reached out to the Department of Justice prior to your arrival?

A Prior to my arrival. Okay. I don't believe that I was aware of that.

Q Did you ever become aware that Earl Comstock or other people at the Department of Commerce had reached out to the Department of Homeland Security about the citizenship question before you arrived?

A I don't believe that I was aware of that, no. I do not recall having anyone tell me either of those things.

Q Did anyone else besides Mr. Uthmeier at the Department of Commerce look into or research the legal issues around the citizenship question?

A During what time period?

Q Sure. Why don't we start with -- go through the year 2017.

A I'm trying to think if anybody else from my staff did. I do not recall that anybody else did.

[Davidson Exhibit No. 3

Was marked for identification.]

BY MS. ANDERSON:

Q So I handed you what's marked as exhibit No. 3. It's an email from August 10, 2017. The top email is from Secretary Ross to Earl Comstock, and there's a few emails there.

In it, Secretary Ross writes to Mr. Comstock, in the bottom email, just so you know: Where is the DOJ in their analysis? If they still have not come to a conclusion, please let me know your contact person, and I will call the AG.

Are you aware of what Secretary Ross meant when he said "where is the DOJ in

their analysis"?

A I mean, this is before I started, so I have no ability to give you an opinion on that.

Q Okay.

And Mr. Comstock wrote back a day later: Since issue will go to the Supreme Court, we need to be diligent in preparing the administrative record.

Did you have any role in preparing or anything about what would go into the administrative record once you arrived at the Department of Commerce?

A Yes.

Q Okay. What was your role?

A My memory was more, I mean, administrative record in terms of the Secretary's decision, the process, the issues that, you know, I asked Mike Walsh to look at, you know, going down the road, making sure that the information that needed to get to the Secretary got to the Secretary so that he could make an informed decision. So that's what I'm responding to in terms of my memory of administrative record issues.

Q Was there ever any discussion about putting things in writing or not putting things in writing as it would relate to a future administrative record regarding the citizenship question?

A I don't recall anyone having made that comment. I mean, there's a lot of stuff in writing here.

[Davidson Exhibit No. 4

Was marked for identification.]

Mr. Dewhirst. Exhibit 4?

Ms. Anderson. Correct.

Mr. Davidson. Thank you.

BY MS. ANDERSON:

Q So I handed you what is marked now exhibit 4. The top email is August 16, 2017. It's an email chain between Wendy Teramoto and Earl Comstock, and below, it includes the Secretary.

On August 11 of that email chain, Earl Comstock wrote to the Secretary: Per your request, here is a draft memo on the citizenship question that James Uthmeier in the Office of General Counsel prepared and I reviewed. Once you have a chance to review, we can discuss so we can refine the memo to better address any issues.

Are you aware whether that memo is the same memo that you discussed with Mr. Uthmeier once you arrived at the Department?

A I'm not aware.

Q Right above it, Wendy Teramoto writes back to Earl Comstock: Peter Davidson and Karen Dunn Kelley will -- which I think is "will" -- both be here Monday. Let's spend 15 minutes together and sort this out.

Did you have that meeting when you arrived at the Department?

A I don't recall.

Q And then if we just go back down again to the bottom email, Mr. Comstock wrote: Before making any decisions about proceeding, I would like to bring in Peter Davidson and Census counsel to ensure we have a comprehensive analysis of all angles.

Do you know what he meant by "proceeding"?

A "Any decisions about proceeding." I don't, no.

Q So no --

A No, I don't. I mean, it could mean anything. I don't know.

Q Did you provide a comprehensive analysis of all angles following your arrival at Department of Commerce?

A I mean, I don't -- could you be a little specific about that? Was there that a --

BY MR. ANELLO:

Q Did you provide comments on the memo that was sent to the Secretary?

A I don't recall having added to the memo or --

Q Did you provide comments on the memo that Mr. Uthmeier showed you when he sat down and briefed you?

A I don't recall that. I think I was in receive mode being briefed by James. I don't believe that I contributed anything to that conversation.

Q Did you read the memo?

A I can't recall whether I sat and read the memo and he was there with me or whether he briefed me on the memo.

Q Do you remember its contents?

A I think I responded earlier that it was general background material on the citizenship question.

Q Did it relate to legislative apportionment?

Mr. Dewhirst. And on that, I'm going to instruct the witness not to answer, as that implicates executive branch confidentiality and litigation concerns.

BY MR. ANELLO:

Q Do you consider legislative apportionment to be general background related to the Census?

A I'm sorry. Do I consider --

Q Do you consider the issue of legislative apportionment to count as general background on the Census?

A I don't have an opinion on that one way or the other. I mean, I don't know.

Q What is -- well, okay.

BY MS. ANDERSON:

Q Around that time, Mr. Uthmeier hand-delivered a version of this memo to the Department of Justice. Were you aware why he hand-delivered the memo?

A Can you break that question up a little bit?

Q Sure. At the time, around this time, Mr. Uthmeier hand-delivered this memo to the Department of Justice, to John Gore at the Department of Justice. Were you aware that he did that?

A You're making the assumption this memo is the same as the Uthmeier memo that I saw. I --

Mr. Dewhirst. Sorry. Are you still talking about the memo referenced in exhibit 4.

Ms. Anderson. Yes.

Mr. Dewhirst. Okay.

Mr. Davidson. I'm not sure. I mean, I can't tell you with 100 percent certainty what that memo was because I wasn't there yet.

BY MS. ANDERSON:

Q Okay. So Mr. Uthmeier delivered a memo, a legal memo, about the citizenship question to John Gore at the Department of Justice in the fall of 2017. Were you aware that he did that?

A My memory is, at some point, I became aware that he did that, yes.

Q When did you become aware?

A I can't tell you the -- I can't give you an exact date or whenever I became -- but I was aware that he had brought the memo there.

Q Was it around the fall of 2017? Was it yesterday? Can you just --

A Oh.

Mr. Dewhirst. You're asking when he recalled --

Mr. Davidson. Oh.

Mr. Dewhirst. -- or when he learned.

Ms. Anderson. Correct.

Mr. Dewhirst. Gotcha.

Mr. Davidson. Sometime in that timeframe. I don't know exactly when it was.

BY MS. ANDERSON:

Q Sorry. Which time?

A Well, the fall timeframe.

Q Okay.

A Yeah.

Q How did you become aware that he had delivered a memo or provided some documentation?

A I don't recall how I became aware of it.

Q Did you direct him to do that?

A I don't recall.

Q Did someone else direct him to do that?

A I don't recall.

BY MR. ANELLO:

Q So you said you became aware that he brought it over to the Department of Justice --

A Well, I became aware that the research was made available to Department of Justice.

Q Okay. Were you aware that the method of delivery was hand-delivery?

A Again, I can't recall that I knew at the time. I believe in subsequent litigation matters I became aware of that as well, but I don't recall that I knew that at the time.

Q Do you know why it was hand-delivered?

A I don't know why.

Q Did you learn about the delivery of that memo before or after it actually happened?

A You know, I don't recall. I can't remember if it was before or after.

Q Do you know what was contained in the memo that was sent over or delivered to the Department of Justice?

A My general recollection -- if it's the same as the one that James previewed with me, the draft memo, it was legal research on the citizenship question generally.

Q Do you remember the specific topics that were covered?

Mr. Dewhirst. You can answer "yes" or "no." But, again, we're getting awfully close to discussing the contents of that memo.

Mr. Davidson. You know, I remember it being a general memo about a lot of issues surrounding the citizenship question.

Mr. Anello. But do you remember what those issues were?

Mr. Davidson. I don't remember the specific issues, no.

Ms. Anderson. Mr. Uthmeier also left a handwritten note -- or delivered a handwritten note along with the memo. Did you ever become aware of the note?

Mr. Davidson. Subsequently, in the -- I mean, I -- in the litigation process, again, I think I became aware of that note.

Ms. Anderson. Did you become aware of the contents of that note?

Mr. Davidson. I don't know what that note contained.



Mr. Anello. Did Secretary Ross direct Mr. Uthmeier to deliver that memo or note?

Mr. Davidson. I don't know that.

Mr. Anello. Do you know why that legal analysis was made available to the Department of Justice?

Mr. Davidson. I personally do not know, but, I mean --

Mr. Dewhirst. I'd caution the witness.

Mr. Davidson. Okay.

Mr. Anello. Did you ever hear why?

Mr. Davidson. I can't recall having heard why. I don't recall that. I'm --

Mr. Anello. Do you have a belief as to why?

Mr. Dewhirst. I'm sorry. What?

Mr. Anello. Do you have belief as to why it was delivered -- legal analysis was provided to the Department of Justice?

Mr. Dewhirst. To the extent you can answer "yes" or "no."

Mr. Davidson. I mean, I guess, you know, a reasonable person would probably believe that people having more information as they're coming to legal opinions would be better than having less information, so --

Mr. Anello. Well, did the Department of Justice ask for it?

Mr. Dewhirst. And there I'm going to instruct the witness not to answer, as it --

Mr. Davidson. I don't recall.

Mr. Dewhirst. -- implicates executive branch confidentiality and litigation concerns.

Mr. Anello. And just to be clear, I think the witness said he didn't recall.

Ms. Anderson. Did any of the contents of the memo that Mr. Uthmeier

previewed for you appear in the December 12, 2017, DOJ letter?

Mr. Dewhirst. I'm going to instruct the witness not to answer, as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did the memo contain any rationale that would support an addition of a citizenship question?

Mr. Dewhirst. The memorandum?

Ms. Anderson. Correct.

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Do you remember asking Mr. Uthmeier to add or take away anything from the memo?

Mr. Dewhirst. You can answer if you know.

Mr. Davidson. I do not recall doing that.

Ms. Anderson. Do you know if anyone else at the Department of Commerce asked him to edit or change the memo?

Mr. Davidson. I don't recall. I don't know whether they did or not.

Mr. Anello. Do you know whether Mark Neuman played any role in the research or the drafting of that memo?

Mr. Dewhirst. And, again, "that memo," we're talking about --

Mr. Davidson. The Uthmeier.

Mr. Dewhirst. -- the memo that's referenced here or the memo that James shared with him in that early --

Mr. Anello. It's the same memo, but either one.

Let's start with the memo that's referenced in the email. Do you know if Mr. Neuman played a role in drafting or reviewing that memo?

Mr. Davidson. I don't recall ever having been told he did one way or the other.

Mr. Anello. And how about with respect to memo that was hand-delivered by Mr. Uthmeier to the Department of Justice?

Mr. Davidson. Did Mark Neuman have a role in that?

Mr. Anello. Correct.

Mr. Davidson. That's the same answer.

Ms. Anderson. Are you aware of anyone else having a role in drafting the memo that James Uthmeier provided you?

Mr. Davidson. No. I mean, I read this email, but I don't have personal knowledge of that.

[Davidson Exhibit No. 5

Was marked for identification.]

Ms. Anderson. I'm going to hand you what's marked as exhibit 5.

Mr. Davidson. Okay.

Ms. Anderson. It does have a back page.

Mr. Dewhirst. Front and back? Okay. Thanks.

Mr. Davidson. Okay. I read it.

Ms. Anderson. So I'm going to start on the back.

Mr. Davidson. Okay.

Ms. Anderson. Just for identifying on the record, it's an email chain which ends on August 29, 2017. It's a chain with various people. It includes you.

I'm going to start with an email that was sent on August 29, 2017, from you to Israel Hernandez, Earl Comstock, James Uthmeier, and it CC's Wendy Teramoto.

In that email, you wrote: The Secretary asked to set up a briefing on some of the key legal issues he is concerned about. Can we get something on the books for next week when Izzy returns? I can't find Karen in the directory, but she should be included

as well. Izzy, I know you and James have been working on this for a while, so I will hand off to you to coordinate."

And the email is entitled "Census."

What were the key legal issues that you were referring to in this email?

Mr. Dewhirst. To the extent you recall.

I'm going to instruct the witness not to answer because it implicates executive branch confidentiality and litigation concerns.

Mr. Davidson. I don't recall what the key legal issues were.

BY MS. ANDERSON:

Q Did you brief the Secretary around this time about Census issues or citizenship question issues?

A I don't recall such a briefing.

Q On the front of exhibit No. 5, there's a list of attendees for a proposed briefing. It includes Wendy Teramoto, Israel Hernandez, Earl Comstock, James Uthmeier, you, and Karen Dunn Kelley.

Can you briefly, at this point in time, I guess at the end of August 2017, describe each of these people's specific roles with regards to the citizenship question?

A Okay. So should we -- the list in the "hi all" paragraph?

Q Correct.

A Okay. Well, I previously mentioned that Wendy Teramoto was chief of staff. Israel Hernandez was --

Q So let me just -- I know we talked about this briefly, so maybe I can just be a little bit --

A Okay.

Q -- more narrowed with my question, if that's okay.

So you said Wendy Teramoto was a scheduler primarily. Did she play any more substantive role at this --

A No.

Q -- time?

A Well -- oh.

Q -- with regards to the citizenship question?

Mr. Dewhirst. You might want to be careful. She was not a scheduler --

Ms. Anderson. Sure. She was a chief of staff. But you said previously that she performed --

Mr. Dewhirst. Right, right. A lot of scheduling involved?

Ms. Anderson. Sure. Or helped manage the many meetings I presume the Secretary had.

Mr. Davidson. Yeah. That would probably be getting the people together would be, yeah, part of her role.

BY MS. ANDERSON:

Q Okay. And Israel Hernandez, you mentioned, had researched some of the legal issues or worked on some --

A No --

Q Can you explain?

A Yeah. Israel Hernandez was the one who, I think, first identified it as, you know, an issue I needed to get up to speed on.

Q Okay. Did he play any more of a substantive role at this time with regards to the citizenship question?

A I don't recall. He was involved in kind of the administrative aspects of the front office, but I don't recall him having done anything specifically more on the issue.

Q Okay.

I believe we already talked about Mr. Comstock and Mr. Uthmeier. Did Ms. Kelley play any more substantive role with regard to the citizenship question at this time?

A I mean, Karen was the Under Secretary for ESA, and so she was sort of, you know, coordinating, in charge of all Census matters, so -- I don't have a recollection of her weighing in on the citizenship question at this point.

Q So you said previously that you didn't remember the specific briefing.

A Right. I don't.

Q Okay. But do you remember getting any directives or having any decisions made around this time with regard to next steps around the citizenship question?

A I mean, at the end of August, I don't know what the, you know, next steps would have been if this meeting happened. I don't recall.

[Davidson Exhibit No. 6

Was marked for identification.]

Ms. Anderson. I'm going to hand you 6, and then I'll hand you 7, which is a longer version of the same email chain.

Mr. Dewhirst. Okay.

Ms. Anderson. Just give me one second.

Mr. Davidson. Can I see that last exhibit, please?

Ms. Anderson. This one?

Mr. Davidson. Exhibit 5. Okay. I just wanted to see what the date was.

[Davidson Exhibit No. 7

Was marked for identification.]

Ms. Anderson. I'm also going to hand you 7, which is a longer version of that

email chain.

Mr. Davidson. It's the same one? Okay.

Ms. Anderson. Yeah. If you look on the second page --

Mr. Anello. It looks different because it is more heavily redacted, but it appears to be the same email.

Mr. Davidson. Okay.

BY MS. ANDERSON:

Q So why don't we start with exhibit No. 6.

A Okay.

Q In that email, dated on September 7, 2017, Earl Comstock wrote to you and Mr. Uthmeier, quote: Hi, Peter and James. As I discussed with James a little while ago, the Secretary would like an update on progress since the discussion yesterday regarding the citizenship question. If we could get a short email or memo today, that would be great. Thanks, Earl.

Do you know what discussion he was referring to in that email, presumably on September 6?

A Discussion he had with James a little while ago or the discussion with the --

Q He said, quote: The Secretary would like an update on progress since the discussion yesterday regarding the citizenship question.

Do you know what he means regarding the discussion yesterday about the citizenship question?

A I do not.

BY MR. ANELLO:

Q Is it possible that that was the meeting that was discussed in the past email that we just looked at?

A Yeah, I was just looking back at the date of that. So that was the 29th, and --

Q Yeah, but they said we were going to meet next Wednesday, which I believe would be the 6th of September. And then this email is on the 7th of September talking about a meeting that happened the day prior.

A I don't recall it, but you asked is it possible. It's possible.

Ms. Anderson. Do you know what he referred to when he wrote "the Secretary would like an update on progress since the discussion"? Do you know what he meant by "progress"?

Mr. Dewhirst. To the extent -- I'm going to instruct the witness not to answer, as that implicates executive -- well, you can answer that question "yes" or "no." Sorry.

Mr. Davidson. Yeah. I don't know what "progress" meant in that context.

Ms. Anderson. Okay. Do you know if you were expected to make any particular progress around this time surrounding the citizenship question?

Mr. Davidson. I don't recall if I had an assignment after the meeting or not.

Mr. Anello. You mentioned earlier that someone at the Department of Commerce told you to do something related to the citizenship question. Is it possible that that September 6 meeting was when you were instructed to do something related to the citizenship question?

Mr. Davidson. It's possible.

Mr. Anello. Okay. So do you think the person who instructed you to do that was on that list of folks that we saw was included in the meeting?

Mr. Davidson. It's possible.

Ms. Anderson. If we could turn to exhibit 7 now. It's heavily redacted. It appears that Mr. Uthmeier responded to Mr. Comstock and you, and then you responded



to Mr. Uthmeier's response.

Do you remember what you wrote back?

Mr. Dewhirst. Which one are you referring to specifically?

Ms. Anderson. Sorry. It's the third email down on the first page.

Mr. Hull. 5:30 p.m.?

Ms. Anderson. Correct. 5:30 p.m. It's completely redacted?

Mr. Davidson. Oh. So I wrote to James and Earl and copied Wendy.

BY MS. ANDERSON:

Q Correct. And the subject is entitled "Census Matter Follow-Up."

Do you recall what you responded to Mr. Comstock's request to get a short email or memo today about progress since the discussion with the Secretary?

A I don't.

Q Do you recall whether you provided or whether Mr. Uthmeier provided an email or a memo giving progress updates to the Secretary around this time?

A I don't recall that.

Q So, looking at this request now in exhibit 6, where Mr. Comstock requests a short email or a memo, what format do you think you would have taken in responding to that request? Would you have emailed back? Would you have created a memo and delivered it? Do you have any idea?

A I don't know. I mean, I don't know if I responded or not or if James responded or not. I don't know.

Q Further up on exhibit 7, Mr. Comstock replied: I suggest setting up a call for tomorrow. The Secretary is asking for progress on this.

Are you aware of whether a phone call between you and the other --

Mr. Dewhirst. I'm sorry. What email are you -- oh, the one immediately above.

I'm sorry?

Ms. Anderson. Sorry. I can start using timestamps if that's easier.

Mr. Dewhirst. Sorry.

BY MS. ANDERSON:

Q 6:13, from Mr. Comstock to the parties on the email.

Do you recall whether a phone call with the Secretary and anyone on this list occurred on September 8 or around September 8?

A I don't recall.

Q Okay.

And then finally, at the top, at 10:39 p.m., Mr. Comstock writes to Mr. Uthmeier.

And in the unredacted parts, it says: Earl, I touched base with Peter. He spoke with Kassinger this evening.

Do you know which Kassinger he was referring to?

A I assume it was Ted Kassinger.

Q And what was his role?

A He was a former general counsel of the Department of Commerce.

Q Okay. Was he working at the Department of Commerce at the time of this email?

A No.

Q Okay. Where was he working?

A He was at a law firm.

Q Do you know which law firm?

A I think it was -- I think he moved to O'Melveny. He was at Vinson & Elkins at one point, but I think it was O'Melveny.

Q Had the Department of Commerce retained O'Melveny's services in

connection to the 2020 Census or the citizenship question?

A Not to my knowledge.

Q Do you know what Mr. Uthmeier discussed with Mr. Kassinger? Oh. Or what you discussed. Sorry. I misread the --

Mr. Dewhirst. I think there's a big question about who discussed --

BY MS. ANDERSON:

Q Did you discuss the citizenship question with Mr. Kassinger at any point?

A I don't recall this specific conversation, so --

Q Generally?

A -- I mean, I believe -- you know, my memory is that, at some point, I -- put it this way. I would occasionally touch base with Ted, as a former general counsel of the Department, to gauge what his experiences were on things. So I would use him as a -- you know, ask him what his experiences were.

Q Did you speak with him about the citizenship question?

A I don't have a recollection of that in this conversation.

BY MR. ANELLO:

Q Were you asked during the September 6 meeting to reach out to him or anybody else about something related --

A I don't have a recollection of that.

Q Do you know --

A Sorry. But, I mean, this might -- what I would occasionally do, when I was new to the job, is reach out and ask questions.

Q And do you remember ever speaking to him about the citizenship question?

A You know, I don't have a memory of that.

Q Do you know his view on whether a citizenship question should be added?

A I don't.

BY MS. ANDERSON:

Q Okay. Are you aware of conversations that occurred between the Attorney General and Secretary Ross about -- I believe that you testified earlier that were you aware of those conversations.

A Yes. I was aware of a conversation.

Q A conversation. Okay. How did you become aware of that conversation?

A I don't recall.

Q When did you become aware that Attorney General Sessions and Secretary Ross had spoken?

A I don't recall exactly when it would have been, but in the fall timetable.

Q Did you become aware of when that conversation had occurred between the Attorney General and Secretary Ross?

A I don't recall.

Q Did you become aware of what they discussed?

A Well, I don't think I was aware of the specifics of what they discussed.

Q Did you become aware --

A I think I testified that the topic that they discussed was the citizenship question. That's what I became aware of. But I don't remember having known more than that about that conversation.

Ms. Anderson. Can we have No. 7?

[Davidson Exhibit No. 8

Was marked for identification.]

Mr. Dewhirst. We have a different number.

Ms. Anderson. It's 8.

Mr. Dewhirst. Oh, your number. I gotcha.

Ms. Anderson. And I wrote "7," so I fixed it.

Mr. Dewhirst. Okay.

Ms. Anderson. And if I could just direct your attention to primarily the second email on the first page.

Mr. Dewhirst. 12:10 p.m.?

Ms. Anderson. Correct.

Mr. Dewhirst. If you want to take a second to read it.

Mr. Davidson. Yeah, I just was going to follow the chain here a little bit.

Mr. Dewhirst. Maybe read it from the bottom.

Mr. Castor. Hey, Russ, I think we've reached the glorious part of the hour where the hour has ended.

Mr. Anello. Oh, has it? I thought you said we had 5.

Ms. Anderson. I thought we had until -- I wrote down --

Mr. Castor. I think we're at 59 minutes on the clock.

Mr. Dewhirst. We don't have any objection to doing one more document if --

Mr. Anello. It's the Republicans' time.

Mr. Dewhirst. Oh, yeah. That's a good point.

Mr. Anello. We're happy to come back and take this up next hour. That's fine with us.

Mr. Castor. No. Please continue.

Ms. Anderson. Okay. We'll just do this one, and then we'll take a break.

Mr. Castor. Okay.

Mr. Davidson. Okay.

BY MS. ANDERSON:

Q So I'm going to read from -- it's an email chain entitled "Re: Call." It occurred starting September 13 through September 18, 2017, between Ms. Teramoto and several officials at the Department of Justice.

A Uh-huh.

Q At 12:10, Danielle Cutrona from the Department of Justice wrote Ms. Teramoto at the Department of Commerce, quote: Wendy, the Attorney General is available on his cell phone. His number is -- redacted -- he is in Seattle, so he is 3 hours behind us. From what John told me, it sounds like we can do whatever you all need us to do and the delay was due to a miscommunication. The AG is eager to assist. Please let me know if you need anything else. You can reach me at -- redacted.

Do you know what she meant by "the Attorney General is eager to assist" the Department of Commerce?

A I don't know specifically. I was not involved in this email chain, so --

Q Okay.

The top email then says, quote: They connected. Thanks for your help. Wendy.

A Oh, okay. Yes.

Q Does that draw your recollection at all on any of the contents of the conversation that occurred between the Secretary and the Attorney General?

A No.

BY MR. ANELLO:

Q Do you know what the AG was offering to assist with?

A Again, I'm not a participant on this email chain, so I'm not sure that -- I don't know. It would be speculative if I did.

Q But you did mention you were aware of a conversation --

A Yes.

Q -- in the fall between the Attorney General and the Secretary. And were you aware that during that conversation the Attorney General had offered to assist with something?

A I don't recall being told anything about that conversation. I mean, I remember that it happened, and I don't remember being given details about the conversation.

Q Based on your knowledge, did the Attorney General offer to assist in making a request for the citizenship question?

Mr. Dewhirst. I'm going to instruct the witness not to answer, as that implicates executive branch confidentiality and litigation concerns.

BY MR. ANELLO:

Q Putting aside just this one specific conversation, were you ever aware that the Department of Commerce had asked the Department of Justice to make a request for the citizenship question?

There were a lot of "ask"s and "request"s in there. I can repeat it if you want me to.

A Yes, please.

Q Did you ever become aware that anybody at the Department of Commerce asked the Department of Justice to make a request for a citizenship question?

A I do not recall, you know, a conversation where someone told me that that had happened.

Q So even if you can't recall the specific conversation, did you ever become aware that that had happened?

A I'm not aware -- I mean, I did not become aware of that. I don't remember

a conversation where someone said that was what it was. That would be how I would become aware of it, was someone telling me that --

Q Right. And so you're saying that's not something you ever became aware of.

A I did not recall someone, you know, saying it that way to me, so I don't recall being aware of it.

Q Do you remember somebody describing those conversations a different way?

A That the -- well --

Mr. Dewhirst. Different way from what?

Mr. Anello. From a request.

So my question was whether the Department of Commerce had asked the Department of Justice to make this request, and Mr. Davidson said that's not the way he remembers it. It sounded like he might have had some memory of how it was described to him, so I'm trying to understand that.

Mr. Davidson. Again, up until this point in -- well, in August -- I don't know what had happened before August. Was I made aware of things that had happened prior to August? Not really.

So, you know, at the point where we're in this discussion here, I don't believe I knew I was aware of that, nor do I believe I knew other contacts had been made to that point. So I think I can say I was -- I do not remember being aware.

Ms. Anderson. Okay. We're a little bit over our hour.

Mr. Davidson. Okay.

[Recess.]



[1:08 p.m.]

Ms. Anderson. We can go back on the record. It's 1:08.

[Davidson Exhibit No. 9

Was marked for identification.]

BY MS. ANDERSON:

Q I'm going to hand you what's marked as exhibit 9. It's an email from September 19th, 2017, from Secretary Ross to you entitled "Census." Secretary Ross wrote, quote, "Wendy and I spoke with the AG yesterday. Please follow up so we can resolve this issue today," end quote.

What did the Secretary mean by "follow up"?

Mr. Dewhirst. To the extent you can answer without disclosing executive branch confidentiality and litigation interests, you can.

Mr. Davidson. I'm not certain what he meant there.

Ms. Anderson. What do you --

Mr. Davidson. I don't know what he -- what he meant there.

Ms. Anderson. Do you know who or what you were supposed to follow up about, who with or what about?

Mr. Dewhirst. Same instruction.

Mr. Davidson. From this email, no.

Ms. Anderson. What did the Secretary mean by "so we can resolve this issue today"?

Mr. Dewhirst. Again, to the extent you can answer without implicating executive branch confidentiality and litigation interests, you may.

Mr. Davidson. I would just say it's hard to know. I mean, there were a lot of issues that are contained in issue, so I don't know.

MS. ANDERSON:

Q So let's back up.

A Okay.

Q You said that you were aware that Secretary Ross and the Attorney General had spoken, and you said that you knew the topic of that conversation was about the citizenship question.

And then we talked about emails that were about a conversation. And then Secretary Ross emailed you and said the AG -- "Wendy and I spoke with the AG yesterday," and that email was entitled "Census," right?

Do you know what he's referring to when he's asking you to follow up following potentially conversations between him and the AG about the citizenship question?

A So if I can just rewind a little bit.

Q Sure.

A Because I just want to make sure that I'm being accurate about what I'm saying and what I said before.

So I was aware, as I stated before, I was aware that there was a conversation between the Attorney General and the Secretary. I was not aware when that conversation was. And now you're showing me these emails and asking me if that was the same conversation or not, and I don't know the answer to that.

Mr. Anello. Maybe if you have the email that we looked at before, which was exhibit 8. Is that right?

Ms. Anderson. Yes.

Mr. Davidson. And when was that?

BY MR. ANELLO:

Q So that email on September 17th, that second email in the chain, September

17th at 12:10 p.m., that is when Danielle Cutrona from the Office of the Attorney General writes that the Attorney General is available, that he's in Seattle, that we can do whatever we need to do, and the delay was due to miscommunication, the AG is eager to assist.

A Correct.

Q So then the top email in the chain is from September 18th?

A Correct.

Q And it says they connected.

A They connected, yes.

Q They being the Attorney General and the Secretary, right?

A I guess so.

Q Then the email we were just looking at, which is exhibit 9, this is now the following day, September 19th. And the Secretary wrote to you, "Wendy and I spoke with the AG with yesterday."

So does this refresh your recollection that the conversation he's referring to was the one between him and the Attorney General to discuss the citizenship question?

A I don't have specific -- I don't have knowledge of that, that that's what it is, but when you're looking at the email chain, it might be logical to conclude that. I don't have a memory about that.

Q Do you have a memory of the Secretary contacting you after he communicated with the AG and asking you to follow up to resolve something?

A I'm reading the email here.

Q Okay.

A So I don't remember that. He sent me the email at that time. I'm reading the email now, so --

Q Right. But do you have a memory of him asking you to resolve something

following his conversation with the Attorney General?

A I don't have a memory of him -- no, I don't have -- I don't have that memory.

Q Do you have a memory of being asked to resolve something relating to the citizenship question?

A I have a memory -- by "resolve," I don't know about resolve, but the memory of being asked to take a step.

Q Okay. And what step were you asked to take?

Mr. Dewhirst. Instruct the witness not to answer because that implicates executive branch confidentiality and litigation interests.

BY MR. ANELLO:

Q You said earlier you didn't remember what step -- sorry -- who asked you specifically to take the step, but that they were at the Department of Commerce. Is that right?

A It likely would have been someone at the Department of Commerce.

Q Okay. Reading this email, does it refresh your recollection that the Secretary asked you to take a step?

A It does not refresh my memory.

Q He's instructing -- he's asking you personally to follow up on something, correct?

A Right. That's what it looks like.

Q Okay. So do you believe that that instruction to follow up or request to follow up is the same as the instruction to take a step that you're remembering, or do you think that was different?

A It could be -- it could be different.

Q Was the instruction to follow up -- excuse me -- the instruction to take a

step, was that given to you around the same time, around September 19th, 2017?

A I don't recall precisely.

Q Did the step involve the Department of Justice?

Mr. Dewhirst. Again, instruct the witness not to answer because that implicates executive branch confidentiality and litigation interests.

Mr. Anello. Did you take a step relating to the Department of Justice on or about September 19th, 2017?

Mr. Dewhirst. To the extent you recall, you can answer as long as you don't implicate executive branch confidentiality and litigation concerns.

Mr. Davidson. I remember -- yes, I do.

Mr. Anello. You did take a step regarding the Department of Justice?

Mr. Davidson. I do remember it.

Mr. Anello. Okay. What step did you take?

Mr. Dewhirst. I'm going to instruct the witness not to answer on the same basis previously stated.

Mr. Anello. Did you contact DOJ and tell them that the Secretary wanted them to make a request for a citizenship question?

Mr. Dewhirst. Same instruction to the witness.

Mr. Davidson. No. I don't -- I don't recall that.

Mr. Anello. So that's not what you did?

Mr. Davidson. I do not recall doing that, no.

Mr. Anello. Okay. Did you contact the Department of Justice and discuss the legal -- excuse me -- did you discuss the rationale that they would use when they made their request?

Mr. Dewhirst. Same instruction to the witness.

Mr. Davidson. Can you rephrase the question?

Mr. Anello. Did you contact the Department of Justice to discuss the legal rationale that the Department would use when it requested a citizenship question?

Mr. Dewhirst. I'm going to instruct the witness not to answer.

Mr. Davidson. I'm sorry. Can you try to rephrase?

Mr. Anello. I'm trying. I'm not really sure where the entryway here is. I'm trying to understand what you did with the Department of Justice here. It sounds like you told us what you didn't do. You said you didn't convey a request to ask for a citizenship question. So I'm trying to understand what you did do.

Mr. Dewhirst. There's no question there.

Mr. Anello. What did you do?

Mr. Dewhirst. I'll instruct the witness not to answer on the same basis as previously stated.

BY MR. ANELLO:

Q Did you contact John Gore after you were asked to take a step?

A Can you separate that question out into --

Q After -- so you told us that you were asked to take a step, correct, relating to the citizenship question?

A Which suggested that I take an action, yes.

Q Okay. And after it was suggested to you by somebody, likely at the Department of Commerce, that you take an action, did you contact John Gore?

A Yes.

Q Okay. Did you contact John Gore as a result of the suggestion?

A I don't recall that it was -- you're asking me did I place the call to Gore because of this email?

Q Because it was a suggestion that you said was given to you to take action.

A Oh, okay. Okay. Yes.

Q Okay. Was the action -- was contacting Gore part of the action that you were asked to take?

A It was suggested that I contact Gore, yes.

Q Okay. For what purpose?

Mr. Dewhirst. Instruct the witness not to answer. It implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did the suggestion include anything else besides merely contacting John Gore? Did it include an instruction to tell him something or ask him to do something?

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Was that the first time you had spoken with John Gore about the citizenship question?

Mr. Davidson. Well, I don't -- I don't recall.

Ms. Anderson. Who connected you with him?

Mr. Davidson. That's why I said I can't -- I can't remember exactly who it was. I do not remember the Secretary having done it.

Mr. Anello. Having -- I'm sorry. Having done what?

BY MS. ANDERSON:

Q Sorry. I think my question is a little different.

A Okay. I'm sorry.

Q Who connected you with John Gore? I know there's someone who made a suggestion.

A Yeah.

Q Was it that same person who then connected you with them or did you just --

A I think it's -- I think it's the same person.

Q Okay.

A I'm just trying to be accurate in my recollection.

Mr. Anello. How many times did you speak to Mr. Gore about the citizenship question?

Mr. Davidson. A couple times.

Mr. Anello. As in two or more than two?

Mr. Davidson. My memory is that it was probably between a half a dozen and a dozen times.

Ms. Anderson. Did you always contact him, or did he always -- who initiated those conversations?

Mr. Davidson. I don't recall. The assumption would be that it was back and forth, but --

Mr. Anello. And were you always talking about the same issues relating to the citizenship question?

Mr. Dewhirst. You can answer that.

Mr. Davidson. I would say generally. I mean, they were -- the conversations revolved around legal issues concerning the citizenship question.

Mr. Anello. So by legal issues, would that be -- include legal justifications for adding a citizenship question?

Mr. Dewhirst. Now I'm going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did you discuss the memo with John Gore?



Mr. Dewhirst. Which memo?

Ms. Anderson. From James Uthmeier?

Mr. Dewhirst. If you recall, you can answer.

Mr. Davidson. I don't recall having discussed the memo with him.

Mr. Anello. Did you discuss the letter that John Gore was drafting requesting a citizenship question?

Mr. Dewhirst. I'm going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Mr. Anello. Just whether they talked about the letter?

Mr. Dewhirst. Yeah. He's provided as much substance on the content of those conversations as the Department is able to provide.

Ms. Anderson. Did you provide John Gore with any documentation with regards to the citizenship question?

Mr. Hull. Could we have just a moment?

[Discussion off the record.]

Mr. Dewhirst. I think that's -- that's a yes-or-no question, so you can answer it.

Mr. Davidson. No. I do not recall having done that.

Ms. Anderson. Do you recall whether anyone else at the Department of Commerce provided John Gore with documentation besides the memo from Mr. Uthmeier?

Mr. Davidson. So can you tell me what you mean by provide documentation?

Ms. Anderson. Give, direct to.

Mr. Davidson. Documentation being like physical documents that were handed to him?

Mr. Anello. Maybe you can just generally explain if you're aware of any

documents of any kind --

Ms. Anderson. Any written material.

Mr. Anello. -- that you either were aware -- that you're aware of being provided to the Department of Justice on this topic.

Mr. Davidson. Yes. I'm aware that -- I mean, the only -- the only thing I can think of was I'm aware that Mark Neuman did a briefing for John Gore on -- I don't know. I don't know what it was on, but I know he did a briefing.

BY MS. ANDERSON:

Q Are you aware of anything else?

A Of any other documentation that was given to him?

Q Any other written material that was provided to Mr. Gore or the Department of Justice from the Department of Commerce about the citizenship question.

A I'm trying to think. I don't -- I'm not aware. I don't recall any other documentation.

Q You said you spoke to him between half a dozen and a dozen times. Over what time period?

A Probably starting at the end of September. And I'm not sure when the last time I spoke with him was.

Q How frequently would you say you talked to him?

A I don't -- I don't recall. It could have been -- I don't recall. I mean, if I were to speculate, I would say it would be a normal conversation where someone calls you, you return their call. I don't recall how long the intervals were in between.

Mr. Anello. Were all of these calls at the -- as a result of the suggestion that you had been given to take a particular action?

Mr. Davidson. I mean, the suggestion that I take an action was the beginning of

that conversation? Is that what you mean?

Mr. Anello. Right. Yeah.

Mr. Davidson. I mean, I guess -- yeah. I guess you could logically say it flowed from that initial suggestion.

BY MS. ANDERSON:

Q      Did you ever review anything that Mr. Gore was drafting regarding the citizenship question?

A I do not recall having received any documents from John Gore.

Q I think my question was a little bit different. Whether you reviewed anything. I didn't ask whether you had received something.

A Okay.

Q But whether you reviewed anything. You know, someone could read you something, and you could offer a comment. That's a review.

A I, you know, I recall having discussions about legal analysis with John Gore.

Q Did you offer commentary or suggestions about how he should frame legal issues?

Mr. Dewhirst. Now I'm going to instruct the witness not to answer, because that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did you ever discuss immigration with Mr. Gore when you were talking about citizenship questions?

Mr. Dewhirst. Again, the same instruction, but --

Mr. Davidson. Yeah. I don't recall having discussions like that with John Gore. You mean, like, policy discussions or legal? I don't -- okay.

Ms. Anderson. How --

Mr. Davidson. I don't recall it coming up.

Mr. Anello. Did you, just generally, did you ever discuss immigration issues with Mr. Gore?

Mr. Dewhirst. Again, I think that implicates executive branch confidentiality and litigation concerns.

Mr. Anello. I'm just asking the general topic of immigration generally.

Mr. Davidson. I do not recall having those conversations.

Mr. Anello. Do you remember ever talking to Mr. Gore -- again, just generally -- about the issue of legislative apportionment?

Mr. Dewhirst. I'm interposing the same instruction because that implicates executive branch confidentiality and litigation concerns.

Mr. Anello. I'm not even asking about the context of the citizenship question. I'm just asking generally did you ever discuss legislative apportionment.

Mr. Dewhirst. You're asking about the content of their discussions.

Mr. Anello. Well, he's already said -- he's already said he did discuss the general topic of the citizenship question. I'm asking about a different general topic. So are you saying there's a different standard that applies here?

Mr. Hull. He's saying that he spoke with Mr. Gore about the citizenship question in an effort to obtain legal advice from the Department of Justice. You're now trying to back door in and ask him if he's asked about other topics in the context of the 6 or 12 conversations with Mr. Gore --

Mr. Anello. No, I'm not, actually.

Mr. Hull. -- to get legal advice about the citizenship question.

Mr. Anello. I'm not asking in that context. I'm asking generally, in any conversation you've ever had with Mr. Gore ever in your life, did you discuss the issue of legislative apportionment?

Mr. Dewhirst. On the same basis, I'll give you the instruction not to answer.

Mr. Davidson. I do not recall having any such conversation with John Gore.

Ms. Anderson. Did you ever discuss or did you become aware of the contents of a conversation that happened between the Attorney General and Secretary Ross from Mr. Gore's perspective?

Mr. Davidson. From Mr. Gore's perspective?

Ms. Anderson. Did you and Mr. Gore discuss a conversation that had occurred between the Secretary and the Attorney General?

Mr. Davidson. I do not recall that discussion.

Ms. Anderson. [REDACTED] can I have No. 9, please?

Mr. Davidson. You have a 9?

Ms. Anderson. Correct. Sorry.

Mr. Davidson. I'm ready.

[Davidson Exhibit No. 10

Was marked for identification.]

BY MS. ANDERSON:

Q Okay. So I've handed you what's marked as exhibit 10 from October 8th, 2017. In the first email, Secretary Ross -- it's entitled "Letter from DoJ" -- Secretary Ross emails and says: What is the status?

There's a response -- he emails you -- there's a response from you that says, quote, "I'm on the phone with Mark Neuman right now. He's giving me a readout of his meeting last week. I can give you an update via phone if you'd like."

Secretary Ross responds, "Please call me."

And then you respond, I think, a few hours later. It says, "Will do. Wrapping up my phone call now?"

How many times did you discuss the citizenship question again with Mark

Neuman? I know you may have answered that, but just --

A How many times did I discuss it with Mark Neuman?

Q Correct.

A Oh, I don't know. Probably -- I don't know. My best guess would be three to four times. Maybe slightly more, but --

Q Did he have an opinion on whether a citizenship question should be added to the Census?

A I don't recall him expressing an opinion one way or the other on whether it should be added.

Q Do you know if he expressed an opinion to anyone else at the Department of Commerce?

A I do not.

Q With regards to -- you wrote, "I'm on the phone with Mark Neuman right now. He's giving me a readout of his meeting last week. I can give you an update via phone if you'd like." Do you know what meeting you were referring to?

A I don't.

Q Do you know if Mark Neuman provided you a readout of his meeting?

A I'm reading this email, but I do not recall having that conversation with him.

Q Do you know if he was having a conversation with someone at the Department of Justice?

A I'm sorry. If Mark Neuman was having the conversation?

Q With someone at the Department of Justice.

A Did I know that he was?

Q Do you know whether he was?

A Yes, I knew there was a possibility that he was going to have a conversation with somebody at Justice.

Q Did you direct him to talk with someone at the Department of Justice?

A No. I mean, I don't believe that I directed Neuman to have a conversation with somebody at Justice.

Q Did you --

A I don't recall that that way.

Q Do you recall it a different way?

A I recall that I had received a briefing from Mark Neuman on, like I said before, a broad issue set and, you know, kind of -- you know, he was -- he impressed me as an expert on many aspects of the Census.

And when it came to the citizenship question -- again, I'm not remembering exactly how this happened -- but the memory, to my best of my ability is that I suggested that Neuman might be helpful to John Gore in his, you know, background legal research on the citizenship question.

Q Did you tell John Gore that you had -- did you tell Mark Neuman that he should talk to John Gore?

A I don't recall how actually the connection was made, you know, who called who or whatever.

Q Are you aware of what they discussed?

A I don't remember getting a readout on anything.

Q Do you --

A I mean, I see the email, but I don't recall it.

Q Sure. Do you know generally what Mark Neuman discussed with Mr. Gore? Maybe not this specific time, but in general.

A I don't. The reason why I suggested that he might want to talk to John Gore is because he had given me a briefing on kind of soup-to-nuts background information. So I presume that was probably what he was going to do with John.

Q So the emails from Secretary Ross, the one where it says please call me, it's time stamped at 6:51 p.m., and then your response is at 10:54 p.m., do you think that you were speaking with Mr. Neuman that entire time?

A I highly doubt it.

Ms. Anderson. Okay.

█ can I have 12, 13, and 14, please?

BY MS. ANDERSON:

Q When you were having your conversations with Mr. Gore, did you suggest that he speak with Mr. Neuman, or did you just suggest that Mr. Neuman speak to Mr. Gore?

A My memory is that I think I raised it with John. I said it might be useful. That's how I remember it.

Q Okay. Did you indicate that he should get any particular information from Mr. Neuman?

A I don't recall, like I said, anything other than just referring to him for background information.

Q Were you aware of Mr. Neuman providing any documentation to Mr. Gore about the citizenship question?

A No.

Q Were you aware of any particulars of what they discussed regarding the citizenship question?

A No. I didn't get -- as I said, I didn't get a readout.



Q Were you aware of whether they ever discussed redistricting?

A I am not.

Q About whether they discussed legislative apportionment?

A I am not.

Q Are you aware if they ever discussed immigration in the context of the citizenship question?

A I do not recall ever having known any of those things.

Ms. Anderson. Okay. What number are we at, 11?

Mr. Dewhirst. Yeah.

[Davidson Exhibit No. 11

Was marked for identification.]

BY MS. ANDERSON:

Q I'm going to hand you what's marked as exhibit 11, and I apologize for the lack of staples. And I'll direct you to the eighth page -- sorry -- the ninth page of that document.

A Okay.

Q I know my Republican colleagues asked you whether you had ever had a conversation with Mr. Hofeller, and you indicated that you had not and had not seen his study. This is a copy of Mr. Hofeller's study.

On the ninth page in his conclusion section, he writes, quote, "A switch to the use of citizen voting age population as the redistricting population base for redistricting would be advantageous to Republicans and Non-Hispanic whites."

Have you ever seen this conclusion before?

A I do not recall ever seeing any of this.

Q Have you ever seen any of the language in the conclusion section before?

A I do not recall having seen any of this language.

Q Did Mark Neuman ever provide you with any documents that contained any of this language?

A I don't recall that he did, no.

[Davidson Exhibit No. 12

Was marked for identification.]

Ms. Anderson. I'm going to hand you what I will mark as exhibit 12.

Mr. Dewhirst. Not exhibit 18?

Ms. Anderson. Correct. That's a Department of Justice marking.

Mr. Dewhirst. Okay.

Mr. Davidson. Okay.

BY MS. ANDERSON:

Q This is a copy of a draft letter that Mr. Neuman gave to John Gore in the fall of 2018. Have you ever seen this document before?

A I think if -- I do not recall having seen it other than in kind of the subsequent litigation.

Q Did you ever see it in 2017?

A I do not recall having seen this in 2017.

Q Did Mark Neuman ever discuss with you draft language for a potential request from the Department of Justice to the Census Bureau requesting to add a citizenship question?

A I don't recall him having done that.

Q Okay. Did he ever provide you with any draft language that would go into such a request?

A I don't recall that he did that either.

[Davidson Exhibit No. 13

Was marked for identification.]

Ms. Anderson. Now I'm now going to hand you what I will mark as exhibit 13.

Mr. Dewhirst. You get the sticker. You're special.

BY MS. ANDERSON:

Q And if you could -- I'm going to have you keep exhibit 12 as well.

A Oh, okay.

Q So exhibit 13 says, quote, we note that in these two cases, one in 2006 and one in 2009, courts reviewing compliance with requirements of the Voting Rights Act and its application and legislative redistricting have required Latino voting districts to contain 50 percent plus one of, quote, 'Citizen Voting Age Population' (or CVAP). It is clear that full compliance with these Federal court decisions will require block level data that can only be secured by a mandatory question in the 2020 enumeration. Our understanding is that data on citizenship is specifically required to ensure that the Latino community achieves full representation in redistricting."

Have you ever seen that language before?

A I don't -- I do not recall having seen that language.

Q So this was found on Mr. Hofeller's hard drive.

Mr. Dewhirst. Which was?

Ms. Anderson. Sorry. Exhibit 13.

Mr. Dewhirst. 13.

Ms. Anderson. And then appears also in exhibit 12, the draft letter from Mr. Neuman -- that Mr. Neuman gave to Mr. Gore.

Did you ever discuss what could go into a draft letter with Mr. Neuman requesting the addition of a citizenship question?

Mr. Davidson. I don't recall having done that.

Ms. Anderson. Did you ever discuss with Mr. Neuman reasons or rationales behind a potential request to add a citizenship question?

Mr. Dewhirst. And I'd just caution the witness, it's getting awful close to implicating executive branch confidentiality and litigation interests, but if you can answer in a way that doesn't, you're free to do that.

Mr. Davidson. Again, I was, you know, I was new to all of these issues, so I'm learning about what these were. My recollection of the briefings with Neuman were that they were fairly high level, 101-type briefings. So I do not recall having, you know, conversations where I was offering opinions, no.

Ms. Anderson. Sorry. Did you discuss either, in either direction, with Mr. Neuman reasons or rationales that would potentially support or you thought could support the addition of a citizenship question to the Census?

A I don't recall. I don't recall specifically what his arguments were one way or the other. I know that he had, when he was doing his briefing, he went through, you know, the history of cases and things like that, but that's all I remember it being.

Q When you referred, I guess, Mr. Neuman to Mr. Gore at the Department of Justice, did you indicate to either of them that they should discuss a reason or a rationale that could support the addition of a citizenship question?

A I don't recall having done that. I'm sorry.

Ms. Anderson. Can I have 11, [REDACTED] please?

Mr. Dewhirst. Do we still need these?

Ms. Anderson. Not right now.

Mr. Dewhirst. Okay.

Was marked for identification.]

Ms. Anderson. I'm going to mark this as exhibit 14.

Mr. Dewhirst. 14?

Ms. Anderson. Correct.

Mr. Davidson. Okay.

Ms. Anderson. It's an email from -- the first email is from November 27th, 2017, from Secretary Ross to you at 7:23 p.m. He wrote, quote: Census is about to begin translating the questions into multiple languages and has let the printing contract. We are out of time. Please set up a call for me tomorrow with whoever is the responsible person at Justice. We must have this issue resolved.

What did the Secretary mean by, "We are out of time"?

Mr. Dewhirst. Again, to the extent you know, you can answer, as long as you don't implicate executive branch confidentiality and litigation concerns.

Mr. Davidson. I don't recall specifically this email, but I'm reading the email, and it seems to be making a point about the first sentence. So just reading it, that's what it seems to mean to me, but I don't have a recollection of what else it would mean.

Ms. Anderson. Why would the Secretary be concerned with the Census having begun translating the questions into multiple languages and having let or contracted with the printer?

Mr. Dewhirst. Same caution to the witness.

Mr. Davidson. Why would -- why -- well, that would be speculation for me to guess about that.

BY MS. ANDERSON:

Q Are you aware -- what do you think the Secretary meant by when he said, "We are out of time. Please set up a call for me tomorrow with whoever is the

responsible person at Justice. We must have this resolved."

A I would be speculating if I guessed, but --

Q At this time, was the Department of Commerce discussing other Census-related issues with the Department of Justice besides the citizenship question?

A I'm not aware of what was being discussed other than what I was discussing.

Q Were you working on any other Census-related issues with the Department of Justice besides the Census question at this time?

A I don't recall.

Q So the Secretary is writing you an email, and the issue that you're working on is the citizenship question issue. Is that correct? During this time.

A Am I working on the citizenship question with the Department of Justice?

Q Correct.

A Yes.

Q Okay. And so the Secretary then writes to you, "Please set up a call for me tomorrow with whoever is the responsible person at Justice," and your testimony before was that the Department of Commerce, to your recollection, was not working on any other issue regarding the Census with the Department of Justice. Is that correct? At this time.

Mr. Dewhirst. I don't think that was quite his testimony.

Mr. Davidson. I just said that I don't recall other issues.

BY MS. ANDERSON:

Q Okay. You weren't working on any other issues. That's correct?

A I don't recall working on other issues.

Q Okay. Who else besides -- were you talking with anybody else at the Department of Justice besides Mr. Gore?

A I mean, in this exchange --

Q In general about the citizenship question, yes.

A Well, I think I testified earlier that later on, we'd had litigation briefings with several folks at Justice. But in this timeframe, it was only John Gore that I remember.

Q Okay. What did the Secretary mean by: We must have this issue resolved.

Mr. Dewhirst. The same caution to the witness. If you can answer that in a way that doesn't implicate executive branch confidentiality and litigation concerns, you can answer.

Mr. Davidson. Again, I can't speculate on what that issue would be. I mean, again, we kind of get back to the point we talked before about issues and sub-issues, so I don't know.

Ms. Anderson. [REDACTED] can I have No. 10, please?

You can keep No. 14.

Mr. Dewhirst. Okay.

[Davidson Exhibit No. 15

Was marked for identification.]

Ms. Anderson. I'm going to mark this as exhibit 15.

Mr. Dewhirst. Thank you.

BY MS. ANDERSON:

Q So this is from November 27th, 2017, at 5:27 p.m., which is approximately 2 hours before the last email we were discussing, and the subject line is "John Gore from DOJ called," and it provides his number. And that was to you from Barbara Murnane.

A Uh-huh.

Q Who is Barbara Murnane?

A She's an executive assistant in the front office.

Q Okay. So presumably informing you that Mr. Gore had called?

A Uh-huh.

Q Is that correct?

A It looks like it.

Q So I'd like you to turn back to exhibit No. 14. The top email says -- is from you to Secretary Ross and says, quote, "I can brief you tomorrow. No need for you to call. I should have mentioned it this afternoon when we spoke."

By "brief you," did you mean brief on a phone conversation that you had with Mr. Gore that day?

A I don't know whether it was that or status. I don't know. I'm not sure what it was.

Q Do you remember whether you spoke with John Gore that day or called him back when you were informed that he called you?

A On the 27th?

Q Correct.

A I don't recall.

Q Do you know what you meant when you wrote "no need for you to call," referring to Secretary Ross' statement that he would call someone at the Department of Justice?

A I don't recall what was in my mind when I wrote that. That was a while ago. But, you know, I don't recall.

Q Did you brief or update the Secretary around this time about the citizenship question?

A I don't remember having done that.



Q Do you recall what the Department of Commerce was doing regarding the citizenship question at this time?

A Could you be a little more precise?

Q Sure. You had said earlier that someone at the Department of Commerce had suggested you do something, and part of that was speaking with John Gore, which sort of flowed --

A Right.

Q -- into several other conversations.

A Right. Right.

Q Do you recall at this time whether you were doing anything else regarding the citizenship question, whether it was suggested to you or whether you were following up or whether you were doing anything else regarding the citizenship question?

Mr. Dewhirst. So that's -- you can answer that question.

Mr. Davidson. Yes. I remember the conversations with John Gore as being -- that's what I remember doing regarding the citizenship question during that time period.

BY MS. ANDERSON:

Q Do you remember doing anything else with regards to the citizenship question at that time besides having conversations with Mr. Gore?

A I don't. I mean, I testified earlier about, you know, many meetings, big meetings that went on about things. So I would attend Census meetings. But I don't remember anything specifically.

Q So after the Department of Justice sent its letter to the Census Bureau on December 12th, 2017, the Department or the Census Bureau reached out to the Department of Justice to request a meeting with technical staff to determine or figure out

whether there was an alternative way to provide the Department of Justice the information it requested in its December 12th, 2017, meeting.

At some point after that, the Attorney General told Department of Justice staff to decline to have that particular meeting. Were you aware of that fact, or did you ever become aware of that fact?

A Was I aware of the fact that the Attorney General instructed that?

Q Or that the Department of Justice specifically declined to meet with the Census Bureau.

A I don't think I was aware. I don't remember being aware that the Attorney General made that direction.

Q Were you aware that the Department of Justice declined to meet with the Census Bureau about their request?

A I think it's accurate to say I was aware -- I was aware a meeting didn't happen. I don't know -- I don't recall why it didn't happen.

Q Were there ever discussions at the Department of Commerce about whether that meeting should take place?

A I don't -- I don't recall -- I don't recall those conversations.

Q Do you recall whether those conversations took place?

A I don't. I don't remember those conversations taking place.

Q Do you remember or recall whether the Secretary ever had an opinion about whether the Department or the Census Bureau should meet with the Department of Justice?

A I don't remember being aware of that.

Q Did you ever have any conversations with anyone from the Department of Homeland Security about the citizenship question?

A I don't recall having had conversations.

Q Do you remember having any conversations with any other person at any other agency about a citizenship question?

A At any other agency than the Department of Justice?

Q Yes.

A Other than the Department of Justice and the Department of Commerce? I don't recall having conversations at any other agency. No, I don't.

Q Did you play any role in drafting the Department of Justice's December 12th, 2017, letter requesting the addition of a citizenship question?

A Can you be specific on what "role" might be? What constitutes playing a role? Can you break it out, like, in what -- in shorter pieces there. Because I want to be precise about how I answer this question.

Q Did you ever draft any language that could go into a letter from the Department of Justice?

Mr. Dewhirst. I'm going to -- wait. Sorry. Finish your question.

Ms. Anderson. Did you ever draft any language that could or would or should or wanted to go into a letter from the Department of Justice to the Census Bureau requesting a citizenship question?

Mr. Dewhirst. I'll instruct the witness not to answer because that implicates executive branch confidentiality and litigation concerns, but if you can somehow not implicate those concerns, you can answer it.

Mr. Davidson. You know, I do not remember ever having drafted.

Ms. Anderson. Did any --

Mr. Davidson. So I don't -- I don't -- I do not remember doing that.

Ms. Anderson. Do you remember if anyone else at the Department of

Commerce ever drafted any language that would or could or was given to the Department of Justice that they could put into a request to add a citizenship question?

Mr. Dewhirst. Same instruction to the witness. If there's a way you can answer without --

Mr. Davidson. Okay. I think I can -- I think I can answer it without getting crosswise on the privileges side.

So I already testified that Mark Neuman went over and spoke with John Gore, and that was partially through my suggestion. So I don't know if that's a part of -- if that's playing a role or not.

And then I know that James Uthmeier had the memo. And so that's, in my memory, that's what I'm aware of, the inputs that could be attributed to people at DOC.

Ms. Anderson. Are you aware of whether anything from James Uthmeier's memo appeared or was discussed as maybe becoming a part of the December 12th letter?

Mr. Dewhirst. And I'm going to instruct the witness not to answer that. It implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did you or anyone at the Department of Commerce ever discuss portions of a drafted December 12th, 2017, letter from the Department of Justice or review parts of it?

We can start with draft, discuss the drafting of. Would you like me to start over?

Mr. Dewhirst. Yeah. Start over.

Ms. Anderson. You said you did not discuss drafting the December 12th, 2017, letter. Is that correct?

Mr. Davidson. Ask it again. With --

Ms. Anderson. Did you ever discuss with anyone the drafting, either the process

or the contents of the Department of Justice's December 12th, 2017 letter?

Mr. Dewhirst. Yes or no.

Mr. Davidson. The drafting of it. So what does that mean?

Mr. Dewhirst. DOJ's drafting of it? Is that what you're talking about?

Ms. Anderson. Yes.

Mr. Davidson. So, I mean, I guess I can say that, you know, John Gore and I discussed the legal issues surrounding the citizenship question.

Ms. Anderson. What did you discuss with him?

Mr. Dewhirst. And that's where the instruction is interposed. I instruct you not to answer that.

Ms. Anderson. So did anyone else have any discussions with Mr. Gore or anyone else at the Department of Justice about the drafting of the December 12th, 2017, letter?

Mr. Dewhirst. Again, the same instruction to the witness. If there's a way you can answer.

Mr. Davidson. I think I already did. I am not aware. I mean, Uthmeier provided the memo.

BY MS. ANDERSON:

Q Correct.

A And I do not recall -- or I do not recall being aware that anyone else was a part of the preparation process.

And just to be clear, you're talking about the end of the process. You're not talking about the emails that you shared with me earlier about previous stuff.

Q Correct.

A Just making sure. I want to be accurate.

Q Did you ever have any conversations or were you aware of any

conversations about how adding a citizenship question could impact Census participation by immigrants or non-citizens?

Mr. Dewhirst. At any time?

Mr. Davidson. Yes.

BY MS. ANDERSON:

Q Who were those conversations with?

A You know, Census Bureau folks. You know, I guess core group of people at the Census Bureau and in my office and other places that were talking about these issues, so --

Q Did any of those conversations occur prior to 2018?

A I don't -- I don't recall -- I don't recall having had those conversations.

Q Did you become aware of anyone else having conversations about those topics prior to 2018?

A I can't say that I was aware, no. I can't recall all the instances.

Q We'll just keep it in that timeframe of before 2018. Did you ever become aware or participate in conversations about how a citizenship question could impact legislative apportionment?

A I don't recall that. Are you talking about 2017? I don't recall that conversation.

Q Prior to 2018.

A Oh. No, I don't recall that conversation.

Q Are you aware of whether Secretary Ross had any conversations that implicated those issues?

Mr. Dewhirst. You might want to unpack it a little bit.

Ms. Anderson. Sure.

Mr. Dewhirst. There are a couple of issues.

Ms. Anderson. Are you aware of Secretary Ross ever having discussed how a citizenship question could impact the participation of immigrants or non-citizens prior to 2018?

Mr. Davidson. No. I believe those discussions were in 2018.

Ms. Anderson. What were the contents of those discussions?

Mr. Dewhirst. So I would urge you to tread carefully here, I mean, because if you can answer in a way that doesn't implicate executive branch confidentiality and litigation interests, please do that.

Mr. Davidson. I mean, they were part of the -- they were part of the discussions with the Census Bureau and other folks.

BY MS. ANDERSON:

Q Did you ever become aware -- go back to the pre-2018 time -- did you ever become aware of Secretary Ross having conversations about how a citizenship question could impact legislative apportionment?

A I don't recall having conversations about Secretary Ross' involvement in that, if that's your question.

Q About whether Secretary Ross had conversations?

A I'm not aware of that.

Q Did you have any role in the Department of Commerce's response to congressional requests for information or documents about the citizenship question?

Mr. Dewhirst. You take that one.

Mr. Hull. We're going to instruct the witness not to answer that question.

Ms. Anderson. About whether or not he had a role?

Mr. Hull. About whether he had, yes. The Department's position is we're not going to discuss the way the Department responds to Congressional oversight.

Mr. Anello. I think the question gets at whether Mr. Davidson is somebody who had a role in the issues that are under investigation and also played a role in the decisions about whether to disclose what happened at the time to our committee. So I think it's an issue that's relevant for us, and that's why we're asking.

Mr. Hull. Okay. Well, I'm going to -- the instruction is going to stand. If there's a way we can get information in an alternative way, we'll certainly consider that, but sitting here today, that's going to be the instruction.

Mr. Anello. Okay. Well, I think the question stands, which is we would like to understand whether Mr. Davidson -- and obviously we've asked that questions of others who we talked with -- played a role in determining which information was going to be



withheld from this committee.

Mr. Dewhirst. I'm sorry. Finish that question up again. I didn't hear what you said at the end. You're talking a little low.

Mr. Anello. Okay. I'm sorry. I think the question is whether Mr. Davidson played a role in determining which information was or was not going to be provided to this committee in response to our request related to the citizenship question.

Mr. Dewhirst. I think the instruction stands.

Ms. Sachsman Grooms. Mr. Davidson, will you tell us whether you had any part in applying them or approving the applying redactions in documents that came to this committee?

Mr. Hull. I'm going to give him the same instruction on the same basis.

Ms. Sachsman Grooms. Will you tell us whether you played any part in applying the redactions to your own documents, documents that you, yourself, were on?

Mr. Hull. I'll make the same instruction.

Ms. Anderson. Did you ever tell Secretary Ross to include or exclude any particular information from public statements he made about his decision process when he was discussing or deciding whether to add a citizenship question to the 2020 Census?

Mr. Dewhirst. To the extent I understand the question, I'm going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Do you know any information that would be contradictory to public statements that the Secretary or anyone else made about the decision to add a citizenship question to the Census?

Mr. Dewhirst. That may trigger the concerns, but I'll allow you to answer.

Mr. Davidson. I mean, you're getting pretty close to the core of attorney-client

issues, so I don't know that I'm comfortable.

Mr. Dewhirst. Well, repeat the question.

Mr. Davidson. Yeah.

Ms. Anderson. Do you know anything that would be contradictory to public statements made by Secretary Ross or anyone else about the process that went -- the process by which the citizenship question was added to the Census?

Mr. Davidson. Okay. Well, I guess I could probably, first of all, answer and say I'm not aware of everything that's been said about the Census and the citizenship question. So it's kind of hard for me to give you a definitive answer on that question. So I don't --

Mr. Anello. How about with respect --

Mr. Davidson. I'm not aware --

Mr. Anello. -- to the statements you are aware of?

Mr. Davidson. I guess the ones I'm aware of, I'm not aware of contradictory information or information that's not accurate.

Ms. Anderson. Did you always use Department email when you were discussing the citizenship question?

Mr. Davidson. I believe I did. You know, I make it a practice not to conduct any business not on Department devices or emails, so I believe that's right.

BY MR. ANELLO:

Q I'll just follow up briefly on a couple of questions that my colleague asked earlier.

You were asked whether you're aware of communications with Mr. Bannon, correct?

A I don't know if I was asked that.

Q Are you aware of any communications with Mr. Bannon regarding the citizenship question?

A Communications between Mr. Bannon and --

Q Anybody at your Department.

A I am not aware of that.

Q Is it possible that those communications could have occurred before you started at the Department in August of 2017?

A That would be speculative.

Q Do you have a reason to think that they didn't take place?

A I have no reason to believe either way.

Q All right. So if there was an email showing that Mr. Bannon had, indeed, contacted the Secretary, that wouldn't surprise you?

A I have no basis for giving you an opinion on that. I don't know.

Q Okay. You also said that you were not aware of any communications with Mr. Kobach. Is that right? Kris Kobach?

A Yeah. I am aware that at one point he was trying to contact the Department. That's the extent of my --

Q Would it surprise you if there were emails showing that he did, indeed, communicate directly with Secretary Ross regarding the citizenship question?

A Same answer to the Bannon question.

Q Do you know Mr. Kobach?

A I don't believe I've ever met him.

Q You also said, I think, that you weren't aware of any communications with Mr. Hofeller, Thomas Hofeller. Is that correct?

A I am not aware of any.

Q Would it surprise you to learn that there's testimony that Mr. Hofeller spoke directly to members of President Trump's transition team about adding a citizenship question?

A I just would be speculating on that. I have no basis for thinking one way or the other.

Q So you have no reason to think that that's incorrect?

A No basis for giving an opinion on it.

Mr. Dewhirst. Ready to take the break?

Ms. Anderson. Yes. We'll take a 5-minute break.

[Recess.]

[2:14 p.m.]

Mr. Anello. Are you all ready?

MR. ANELLO:

Q So I understand that you previously discussed a draft letter that Mark Neuman provided to John Gore at the Department of Justice.

A Tori asked me about it.

Q Right. Were you aware at the time, so in the fall of 2017, that Mr. Neuman was providing that draft letter to Mr. Gore?

A I don't recall having known that.

Q Were you aware that he was providing any documentation to Mr. Gore?

A I think we went through --

Ms. Anderson. Besides the briefings that you --

Mr. Davidson. Right. That was the -- assuming that the briefing materials, that he would use the same ones he used with me. That's basically all I know about that.

BY MR. ANELLO:

Q Were you aware that Mr. Neuman had drafted that draft letter?

A I'm --

Q At the time.

A I was not aware of that, and I'm not aware of it today.

Q At the time, again, let's say fall, roughly around fall of 2017, or even summer of 2017, did you ever discuss with Mr. Neuman the idea that the Department of Justice would request a citizenship question?

A I do not recall -- I'm sorry. Okay. I don't recall having had that conversation with Neuman.

Q Did you ever discuss with him more generally the process by which the

Department could add a citizenship question to the Census?

A I do not recall having that conversation with Neuman.

Q Do you know whether anybody else at the Department of Commerce consulted with Mr. Neuman regarding the process by which a citizenship question could be added?

A I'm not aware of those conversations.

Q Do you know if Mr. Uthmeier, for example, talked to Mr. Neuman about the process by which a citizenship question would be added?

A Again, I'm not aware. I don't know. I don't believe I was told. I don't remember being told.

Q Did you ever ask Mr. Neuman to play a particular role with respect to the Department of Justice regarding the citizenship question?

A My memory was that I referred him over for the same kind of briefing that I got from him.

Q About the citizenship question.

A I think, you know, I would characterize it as kind of resource, historical resource, knowledge about a lot of aspects of the Census.

Q So it wasn't about the citizenship question, or was it?

A I mean, initially, his briefings were on the Census broadly, and then I believe that they became about, you know, aspects of the citizenship question that he knew about as well. So he had a lot of knowledge about that question.

Q So did he give you a briefing -- Mr. Neuman -- specifically about the citizenship question?

A I don't recall that the briefings were specifically about that.

Q Okay. But when you referred him over to the Department of Justice, was

that for the purpose of briefing the Department of Justice specifically about the citizenship question?

A I don't recollect, but that would make sense.

Q Right. I mean, you haven't mentioned any other issues that you were talking to the Department of Justice about at that time, right?

A I mean, again, I don't have a recollection of that. That would make sense.

Q And were you asked by anybody else at the Department or anybody else in the administration, let's say, to connect Mr. Neuman with the Department of Justice to discuss the citizenship question?

A I believe I said earlier that I was asked by someone.

Q You were asked by someone to connect Mr. Neuman to the Department of Justice?

A No, I'm sorry. I'm sorry. I'm getting my connections mixed up. I was asked to contact John Gore. I apologize. My memory is that it was my thought that Neuman's background information would be helpful to John Gore.

Q And why it would be helpful to him?

Mr. Dewhirst. I'm going to instruct the witness not to answer, as that implicates executive branch confidentiality and litigation interests.

If you can answer that in a way that doesn't --

Mr. Davidson. Well, I think I can answer, I mean, why was it was useful for me and, therefore, why I thought it might be useful for John Gore, was I got a lot of good background information from Neuman about the history of the citizenship question.

BY MR. ANELLO:

Q And that was the extent of what you wanted him to talk to Mr. Gore about? Or were there other issues that you wanted him to talk to Mr. Gore about as well?

A That's what I recall. It was just, you know, again, his encyclopedic knowledge of the history of these issues.

Q And did Mr. Neuman ever express to you a view on whether he believed the citizenship question should be added?

A We talked about that previously, but I do not recall him having said that.

Q Did Mr. Gore ever express a view to you on that topic?

Mr. Dewhirst. On the topic? On whether --

Mr. Davidson. His personal opinion?

Mr. Anello. On whether he believed a citizenship question should be added.

Mr. Dewhirst. I'm going to instruct the witness not to answer because that implicates the executive branch confidentiality and litigation interests.

Mr. Anello. All right.

We can go off the record.

[Whereupon, at 2:20 p.m., the interview was concluded.]



Certificate of Deponent/Interviewee

I have read the foregoing \_\_\_\_ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

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Witness Name

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Date

## ERRATA SHEET

INSTRUCTIONS: After reading the interview transcript, please note any change, addition, or deletion on this sheet. DO NOT make any marks or notations on the actual transcript. Use additional paper if needed.

Investigation Name	Census
Witness Name	Peter Davidson
Date of Interview	6/18/19

PAGE	LINE	CORRECTION	APPROVED*
47	10	"in" s/b "and"	
70	6	"Dewhurst" s/b "Dewh <sup>h</sup> rst"	
79	25	"?" s/b "."	
80	22	"?" s/b "."	
81	14	" " " " [same as immediately above]	
86	14	"?" s/b "."	
88	20	"?" s/b "."	
97	7	"?" s/b "."	
98	8	"?" s/b "."	
106	24	"it O'Melveny" s/b "it <u>was</u> O'Melveny"	
128	12	"JUST" s/b "just"	
134	19	"?" s/b "."	
144	15	"the Department" s/b "the <u>way</u> <u>the</u> Department"	

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## ERRATA SHEET

PAGE	LINE	CORRECTION	APPROVED*

DATE: 6/24/19

SIGNATURE: Cynthia A. Hull

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